

1-21-2011

State v. Curry Clerk's Record Dckt. 38127

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LAW CLERK Vol. 1 of 3

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

STATE OF IDAHO

Plaintiff / Respondent

vs.

DAVID LOREN CURRY

Defendant / Appellant

*Appealed from the District Court of the First Judicial District
of the State of Idaho, in and for the County of Kootenai.*

Lawrence G. Wasden
Attorney General
P.O. Box 83720
Boise, ID 83720-0010

Attorney for Respondent

Molly Huskey
State Appellate Public Defender
P.O. Box 83720
Boise, ID 83720-0005

Attorney for Appellant

FILED - COPY

JAN 24 2011

38127

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO)	CRF2010-3389
Plaintiff/Respondent)	
)	
vs.)	
	)	SUPREME COURT
DAVID LOREN CURRY	)	38127-2010
<u>Defendant/Appellant</u>)	

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the First Judicial District of the State of Idaho, in and for
the County of Kootenai.

HONORABLE LANSING H HAYNES
District Judge

Attorney for Respondent
Lawrence G. Wasden
Attorney General
700 W. Jefferson, Suite 210
Boise, ID 83720-0010

Attorney for Appellant
Molley J Huskey
State Appellate Public Defender
3647 Lake Harbor Lane
Boise, ID 83703

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Filed July 14, 2010.....206

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Filed May 20, 2010.....66

State of Idaho vs. David Loren Curry

Date	Code	User		Judge
2/24/2010	NCRF	LSMITH	New Case Filed - Felony	Barry E. Watson
	AFPC	LSMITH	Affidavit Of Probable Cause	To Be Assigned
	ORPC	LSMITH	Order Finding Probable Cause	Barry E. Watson
	HRSC	LSMITH	Hearing Scheduled (Arraignment/First Appearance 02/24/2010 02:00 PM)	Barry E. Watson
	ARRN	LSMITH	Hearing result for Arraignment/First Appearance held on 02/24/2010 02:00 PM: Arraignment / First Appearance	Barry E. Watson
	CVNC	LSMITH	No Contact Order: Civil No Contact Order Filed Comment: DEF TO STAY 300FT FROM TRAVIS ESCUDERO Expiration Days: 366 Expiration Date: 2/25/2011	Barry E. Watson
	ORBC	LSMITH	Order Setting Bond and Conditions of Release	Barry E. Watson
	CONC	LSMITH	Consolidation of charges: 74471	Barry E. Watson
	ORPD	LSMITH	Defendant: Curry, David Loren Order Appointing Public Defender Public defender Public Defender	Barry E. Watson
2/25/2010	NCOS	BROWN	No Contact Order Served	To Be Assigned
	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing Status Conference 03/05/2010 08:30 AM)	Robert Caldwell
	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing 03/09/2010 01:30 PM)	Barry E. Watson
		HOFFMAN	Notice of Preliminary Hearing Status Conference and Preliminary Hearing	To Be Assigned
	AFPC	OREILLY	Affidavit Of Probable Cause For Search Warrant	Lansing L. Haynes
	SWRT	OREILLY	Search Warrant Returned	James D Stow
	INVT	OREILLY	Inventory Of Seized Property	James D Stow
3/1/2010	ORPP	OREILLY	Order Preserving Seized Property	James D Stow
	NAPH	BROWN	Notice of Appearance, Request for Timely Preliminary Hearing, Motion for Bond Reduction and Notice of Hearing	To Be Assigned
	DFWP	BROWN	Defendant's Written Plea - Misdemeanor only	To Be Assigned
	DRQD	BROWN	Defendant's Request For Discovery	To Be Assigned
	MNDQ	BROWN	Motion To Disqualify (Judge Stow)	To Be Assigned
	PRQD	BROWN	Plaintiff's Request For Discovery	To Be Assigned
	PRSD	BROWN	Plaintiff's Response To Defendant's Request For Discovery	To Be Assigned
3/2/2010	DSRQ	BROWN	Defendant's Supplemental Req. For Discovery	To Be Assigned
	DRSD	BROWN	Defendant's Response To Discovery	To Be Assigned
3/4/2010	PSRS	BROWN	Plaintiff's First Supplemental Response To Discovery	To Be Assigned
	SUBF	COCHRAN	Subpoena Return/found--Lora M Beauchamp--3/2/10	To Be Assigned

State of Idaho vs. David Loren Curry

Date	Code	User	Judge
3/4/2010	SUBF	COCHRAN	Subpoena Return/found--James A Curry--3/2/10 To Be Assigned
	SUBF	COCHRAN	Subpoena Return/found--Melissa D Ferra--3/2/10 To Be Assigned
	SUBF	COCHRAN	Subpoena Return/found--Travis J Escudero--3/2/10 To Be Assigned
3/5/2010	HRVC	REYNOLDS	Hearing result for Preliminary Hearing held on 03/09/2010 01:30 PM: Hearing Vacated Barry E. Watson
	PHWV	REYNOLDS	Hearing result for Preliminary Hearing Status Conference held on 03/05/2010 08:30 AM: Preliminary Hearing Waived (bound Over) Robert Caldwell
	ORHD	REYNOLDS	Order Holding Defendant Robert Caldwell
3/8/2010	MNDQ	BROWN	Motion To Disqualify (Judge Mitchell) John T. Mitchell
3/9/2010	DISA	HOFFMAN	Disqualification Of Judge James D. Stow - Automatic - As Alternate (By DA Chapman) James D Stow
3/10/2010	INFO	BROWN	Information John T. Mitchell
	ORDR	CLAUSEN	Order to Disqualify Judge Mitchell John T. Mitchell
3/11/2010	DISA	CLAUSEN	Disqualification Of Judge Mitchell - Automatic by PD Chapman John T. Mitchell
		CLAUSEN	Order Assigning Judge On Disqualification Without Cause - Lansing L. Haynes John T. Mitchell
3/23/2010	HRSC	SVERDSTEN	Hearing Scheduled (Arraignment in District Court 04/09/2010 01:30 PM) Lansing L. Haynes
		SVERDSTEN	Notice of Hearing Lansing L. Haynes
4/9/2010	DCHH	SVERDSTEN	Hearing result for Arraignment in District Court held on 04/09/2010 01:30 PM: District Court Hearing Held Court Reporter: LAURIE JOHNSON Number of Transcript Pages for this hearing estimated: Lansing L. Haynes
	HRSC	SVERDSTEN	Hearing Scheduled (Pre-Trial Conference 06/24/2010 08:00 AM) Lansing L. Haynes
	HRSC	SVERDSTEN	Hearing Scheduled (Jury Trial Scheduled 07/06/2010 09:00 AM) 3 DAYS Lansing L. Haynes
		SVERDSTEN	Notice of Hearing Lansing L. Haynes
4/20/2010	MNBR	BROWN	Motion For Bond Reduction Lansing L. Haynes
4/22/2010	HRSC	SVERDSTEN	Hearing Scheduled (Bond Hearing 05/07/2010 11:30 AM) Chapman Lansing L. Haynes
4/23/2010	NOHG	BROWN	Notice Of Hearing Lansing L. Haynes
4/27/2010	ANHR	BROWN	Amended Notice Of Hearing Lansing L. Haynes
5/7/2010	DCHH	SVERDSTEN	Hearing result for Bond Hearing held on 05/07/2010 11:30 AM: District Court Hearing Held DENIED Court Reporter: LAURIE JOHNSON Number of Transcript Pages for this hearing estimated: Chapman Lansing L. Haynes

State of Idaho vs. David Loren Curry

Date	Code	User	Judge
5/7/2010	ORDR	SVERDSTEN DENIED-Order to Reduce Bond	Lansing L. Haynes
5/20/2010	WITP	BROWN Witness List - Plaintiff's	Lansing L. Haynes
6/1/2010	SUBF	CRUMPACKER Subpoena Return/found 5/27/10 Jerry Lema	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 5/26/10 Scott W Harmon	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 5/27/10 Brett Chapman	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found Frank Bowne 5/26/10	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 5/26/10 David E Marshall	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found Rodney L Gunderson 5/26/10	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found Mark M Goodwin 5/26/10	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 5/26/10 Patrick M Knight	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 5/26/10 Paul Farina	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 5/27/10 Brian Williamson	Lansing L. Haynes
6/2/2010	SUBF	SHANKLIN Subpoena Return/found -- Kevin J Schmeckpeper -- 05-28-10	Lansing L. Haynes
6/16/2010	SUBF	CRUMPACKER Subpoena Return/found 6/14/10 Melissa D Ferra	Lansing L. Haynes
6/24/2010	DCHH	SVERDSTEN Hearing result for Pre-Trial Conference held on 06/24/2010 08:00 AM: District Court Hearing Held Court Reporter: LAURIE JOHNSON Number of Transcript Pages for this hearing estimated:	Lansing L. Haynes
	AINF	SVERDSTEN Amended Information	Lansing L. Haynes
6/25/2010	ORDR	SVERDSTEN Order Setting Trial Priority	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 6/23/10 Marlisa N Gordon	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 6/23/10 Travis J Escudero	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 6/23/10 Lora M Beauchamp	Lansing L. Haynes
	SUBF	CRUMPACKER Subpoena Return/found 6/23/10 James A Curry	Lansing L. Haynes
7/2/2010	HRSC	SVERDSTEN Hearing Scheduled (Jury Trial Scheduled 07/12/2010 09:00 AM) 3 DAYS	Lansing L. Haynes
	HRVC	SVERDSTEN Hearing result for Jury Trial Scheduled held on 07/06/2010 09:00 AM: Hearing Vacated 3 DAYS	Lansing L. Haynes
		SVERDSTEN AMENDED Notice of Trial	Lansing L. Haynes
	MOTN	BROWN Motion Requiring Kootenai County Sheriff's Office To Accept Clothing For Defendant To Wear During Jury Trial	Lansing L. Haynes
7/6/2010	ORDR	SVERDSTEN Order Requiring Kootenai County Sheriff's Office To Accept Clothing For Defendant To Wear During Jury Trial	Lansing L. Haynes

State of Idaho vs. David Loren Curry

Date	Code	User	Judge
7/6/2010	DRJI	MCCANDLESS	Defendant's Requested Jury Instructions Lansing L. Haynes
7/8/2010	PRJI	MCCANDLESS	Plaintiff's Requested Jury Instructions Lansing L. Haynes
7/9/2010	NOTC	SVERDSTEN	Notice of Intent to Use I.R.E. 404(b) Evidence Lansing L. Haynes
7/12/2010	DCHH	JOKELA	District Court Hearing Held - JURY TRIAL - DAY Court Reporter: LAURIE JOHNSON Number of Transcript Pages for this hearing estimated: Lansing L. Haynes
	JTST	SVERDSTEN	Hearing result for Jury Trial Scheduled held on 07/12/2010 09:00 AM: Jury Trial Started 3 DAYS Lansing L. Haynes
7/13/2010	MISC	SVERDSTEN	Defendant's Written Plea (Count 4) Lansing L. Haynes
	PLEA	SVERDSTEN	A Plea is entered for charge: - GT (I18-7001 {M} Property-Malicious Injury to Property) Lansing L. Haynes
	MISC	SVERDSTEN	Supplemental Response to Discovery Lansing L. Haynes
	AINF	SVERDSTEN	Second Amended Information Lansing L. Haynes
	DCHH	SVERDSTEN	District Court Hearing Held JURY TRIAL DAY TWO Court Reporter: LAURIE JOHNSON Number of Transcript Pages for this hearing estimated: Lansing L. Haynes
7/14/2010	DCHH	SVERDSTEN	District Court Hearing Held JURY TRIAL DAY THREE Court Reporter: LAURIE JOHNSON Number of Transcript Pages for this hearing estimated: Lansing L. Haynes
	VERD	SVERDSTEN	Verdict Guilty of Burglary, Guilty of Aggravated Assault Lansing L. Haynes
	MISC	SVERDSTEN	Jury Instructions Given Lansing L. Haynes
	PRJI	SVERDSTEN	Plaintiff's Requested Jury Instructions-SIGNED BY JUDGE HAYNES Lansing L. Haynes
	PSIO	SVERDSTEN	Presentence Order Lansing L. Haynes
	ORES	SVERDSTEN	Order for Evaluation(s) and Setting Sentencing Lansing L. Haynes
7/20/2010	HRSC	SVERDSTEN	Hearing Scheduled (Sentencing 08/31/2010 03:30 PM) Lansing L. Haynes
7/28/2010	MOTN	BROWN	Motion For New Trial Lansing L. Haynes
	MOTN	BROWN	Motion For Judgment Of Acquittal Lansing L. Haynes
7/29/2010	HRSC	SVERDSTEN	Hearing Scheduled (Motion 08/16/2010 03:30 PM) Motion for New Trial, Motion for Judgment of Acquittal, Chapman Lansing L. Haynes
8/2/2010	NOHG	BROWN	Notice Of Hearing Lansing L. Haynes
8/16/2010	DENY	JOKELA	Hearing result for Motion held on 08/16/2010 03:30 PM: Motion Denied Motion for New Trial, Motion for Judgment of Acquittal, Chapman Lansing L. Haynes

State of Idaho vs. David Loren Curry

Date	Code	User	Judge
8/16/2010	DCHH	JOKELA	Hearing result for Motion held on 08/16/2010 03:30 PM: District Court Hearing Held Court Reporter: LAURIE JOHSON Number of Transcript Pages for this hearing estimated: Motion for New Trial, Motion for Judgment of Acquittal, Chapman
8/19/2010	ORDR	SVERDSTEN	Order (Motion for Acquittal and Motion for New Trial Denied)
8/24/2010	PSIR	JOKELA	Presentence Investigation Report
8/31/2010	DCHH	SVERDSTEN	Hearing result for Sentencing held on 08/31/2010 03:30 PM: District Court Hearing Held Court Reporter: LAURIE JOHNSON Number of Transcript Pages for this hearing estimated:
	SNIC	HAMILTON	Sentenced To Incarceration (I18-1401 Burglary) Confinement terms: Credited time: 174 days. Penitentiary determinate: 4 years. Penitentiary indeterminate: 9 years.
	SNIC	HAMILTON	Sentenced To Incarceration (I18-905 Assault-Aggravated) Confinement terms: Credited time: 174 days. Penitentiary determinate: 5 years. Penitentiary indeterminate: 10 years.
	SNIC	HAMILTON	Sentenced To Incarceration (I18-3316 Weapon-Unlawful Possession by Convicted Felon) Confinement terms: Credited time: 174 days. Penitentiary determinate: 4 years. Penitentiary indeterminate: 9 years.
	SNIC	HAMILTON	Sentenced To Incarceration (I18-7001 {M} Property-Malicious Injury to Property) Confinement terms: Jail: 180 days. Credited time: 174 days.
	STAT	HAMILTON	Case status changed: closed pending clerk action
9/1/2010		SVERDSTEN	PSI Transmittal Notice
9/10/2010	NCOL	SVERDSTEN	**No Contact Order Lifted**
	JDMT	HAMILTON	Judgment
9/12/2010	STAT	MEYER	Case status changed (batch process)
9/24/2010	MICR	MCCANDLESS	Motion For Reconsideration Of Sentence Pursuant To I.c.r. 35
10/1/2010	MNPD	BROWN	Motion For Appointment Of State Appellate Public Defender In Direct Appeal: Retaining Trial Counsel For Residual Purposes
	APSC	LSMITH	Appealed To The Supreme Court
10/6/2010	ORPD	SVERDSTEN	Order for Appointment Of State Appellate Public Defender In Direct Appeal: Retaining Trial Counsel For Residual Purposes

Date: 12/22/2010

First Judicial District Court - Kootenai County

User: LSMITH

Time: 05:16 PM

ROA Report

Page 6 of 6

Case: CR-2010-0003389 Current Judge: Lansing L. Haynes

Defendant: Curry, David Loren

State of Idaho vs. David Loren Curry

Date	Code	User	Judge
10/14/2010	NAPL	LSMITH	Notice Of Appeal Due Date From Supreme Court Lansing L. Haynes

STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
FILED:

STATE OF IDAHO)
COUNTY OF KOOTENAI) : SS

2010 FEB 24 AM 11:12

CLERK DISTRICT COURT

DEPUTY

RL GUNDERSON

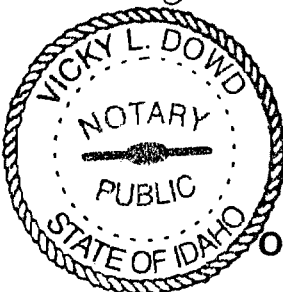
known to me to be the

person whose name is subscribed to the within instrument, acknowledged to me that

he/she subscribed that same and that he/she subscribed the same and that he/she

read the same and that the same was true to the best of his/her knowledge.

DATED THIS 23rd DAY OF February, 2010.



Vicky Dowd
NOTARY PUBLIC FOR IDAHO

RESIDING AT: Post Falls Id

COMMISSION EXPIRES: 032415

ORDER FINDING PROBABLE CAUSE

The above named Defendant having been arrested without a warrant for, the
offense(s) of BURG, AGG ASS, POSS FIREARM

and the Court having examined the Affidavit of the Post Falls Police Department the
Court finds probable cause for believing that said offense has been committed and that
the said Defendant committed it

IT IS THEREFORE ORDERED that the Defendant, arrested without a Warrant,
may be detained, and that he/she may be required to post bail prior to being released.

DATED THIS 24 DAY OF FEB, 2010

TIME: _____ AM/PM

[Signature]
MAGISTRATE

10PFO2947

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
MAGISTRATE DIVISION

CLERK DISTRICT COURT

STATE OF IDAHO)

Plaintiff)

vs.)

CURRY, DAVID L.)

Defendant)

PEACE OFFICER AFFIDAVIT
IN SUPPORT OF PROBABLE
CAUSE AND ORDER FINDING
PROBABLE CAUSE

R.L. GUNDERSON

, being first duly sworn on oath deposes

and says that:

I am a police officer employed by the **Post Falls Police Department**, Kootenai County,
State of Idaho, In the course and scope of my employment, I have conducted a warrantless
arrest of the above named defendant for the offense(s) of

(# 18-3316) Idaho Code

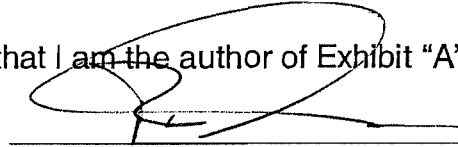
FELON - POSSESSION OF FIREARM.

_____. I do solemnly swear that the basis for the
request is set forth in the attached police report designated as Exhibit "A" and

Uniform Citation Number _____. I have read Exhibit "A" and the contents to the

best of my knowledge are a true and correct account of the incident leading to

the arrest of the above Defendant and that I am the author of Exhibit "A"



Affiant



POST FALLS POLICE DEPARTMENT

Incident Report 10PF02947

10PF02963

Nature: WEAPON OFFENSE
Location: PF2

Address: 911 E SHASTA AVE
POST FALLS ID 83854

Offense Codes: WOFF

Received By: B.PITT

How Received: T

Agency: PFPD

Responding Officers: B.CHAPMAN, F.BOWNE, D.MARSHALL, K.SCHMECKPEPER

Responsible Officer: R.GUNDERSON

Disposition: ACT 02/20/10

When Reported: 18:00:50 02/20/10

Occurred Between: 17:59:39 02/20/10 and 17:59:39 02/20/10

Assigned To:

Detail:

Date Assigned: **/**/**

Status:

Status Date: **/**/**

Due Date: **/**/**

Complainant: 309351

Last: GORDON

First: MARLISA

Mid: NICOLE

DOB: [REDACTED]

Dr Lic: [REDACTED]

Address: 911 E SHASTA AVE

Race: W

Sex: F

Phone: (208)773-5688

City: POST FALLS, ID 83854

Offense Codes

Reported: NC Not Classified

Observed: WOFF Weapons Offense

Additional Offense: WOFF Weapons Offense

Circumstances

Responding Officers:

Unit :

B.CHAPMAN

1147

F.BOWNE

1154

D.MARSHALL

1122

K.SCHMECKPEPER

1146

Responsible Officer: R.GUNDERSON

Agency: PFPD

Received By: B.PITT

Last Radio Log: **/**/** **/**/**

How Received: T Telephone

Clearance: D3F ARREST, FELONY

When Reported: 18:00:50 02/20/10

Disposition: ACT Date: 02/20/10

Judicial Status:

Occurred between: 17:59:39 02/20/10

Misc Entry: k1120

and: 17:59:39 02/20/10

Modus Operandi:

Description :

Method :

009^{02/23/10}

Involvements

Date	Type	Description
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Narrative

INCIDENT REPORT

1. TYPE OF INCIDENT REPORT AND APPLICABLE CODE SECTION:

EXHIBITION OF A DEADLY WEAPON (I.C 18-3303)

2. LOCATION OF INCIDENT:

911 SHASTA AVE (SINGLE FAMILY RESIDENCE), POST FALLS, KOOTENAI COUNTY, STATE OF IDAHO

3. TIME FRAME OF INCIDENT:

APPROXIMATELY 1759 HRS., 02/20/10

4. REPORTING OFFICER:

BRETT CHAPMAN

5. ASSISTING OFFICERS:

SGT DAVID MARSHALL

OFC FRANK BOWNE

OFC KEVIN SCHMECKPEPER

6. PERSONS INVOLVED:

DAVID CURRY (SUSPECT)

TRAVIS ESCUDERO (VICTIM)

MARLISA GORDON (WITNESS)

MELISSA FERRA (MENTIONED)

LORA BEAUCHAMP (CONTACTED)

7. PROPERTY OR EVIDENCE INVOLVED AND DISPOSITION:

N/A

8. REPORT NARRATIVE:

ON 02/20/10 AT APPROXIMATELY 1759 HRS., I (OFFICER CHAPMAN) RECEIVED A RADIO CALL FROM POST FALLS COMMUNICATIONS IN REFERENCE TO AN UNWANTED SUBJECT AT 911 SHASTA AVE. COMMENTS OF THE CALL STATED THAT THE UNWANTED MALE SUBJECT (DAVID CURRY) HAD BRANDISHED A HANDGUN TOWARD ONE OF THE OCCUPANTS OF THE HOME. THE SUSPECT LEFT ON FOOT DRESSED IN A HOODED CARHARDT JACKET AND POSSIBLY HEADING TOWARD HIS RESIDENCE AT 801 GLACIER PEAK DR IN POST FALLS.

I CONTACTED R/P MARLISA GORDON AND HER FIANCEE TRAVIS JOHN ESCUDERO. TRAVIS SAID THAT HE RECEIVED A TELEPHONE CALL ON HIS CELL PHONE FROM A BLOCKED NUMBER. TRAVIS SAID THAT THE MALE VOICE STATED "HEY BUDDY, I'M COMING FOR YOU." APPROXIMATELY FIFTEEN MINUTES HAD ELAPSED WHEN TRAVIS WAS ALERTED BY MARLISA THAT DAVID CURRY WAS WALKING UP THEIR DRIVEWAY. BOTH TRAVIS AND MARLISSA WERE IN

THE GARAGE OF THEIR RESIDENCE WHEN DAVID WALKED IN UNINVITED. DAVID THREW A BAG OF CLOTHES AT MARLISSA'S FEET AND TRIED TO START A PHYSICAL CONFRONTATION WITH TRAVIS. DAVID KICKED A TABLE TOWARD TRAVIS AND LUNGED AT HIM IN AN AGGRESSIVE MANNER. TRAVIS RESPONDED BY GRABBING A POLE TO PROTECT HIMSELF AND MARLISA. TRAVIS SAID THAT HE OBSERVED DAVID PULL THE BUTT END OF A HANDGUN FROM HIS RIGHT FRONT JACKET POCKET AND STATED "'DO YA WANNA GO?'" AT THIS TIME, TRAVIS YELLED TO MARLISA TO GET IN THE HOUSE. TRAVIS SAID THAT DAVID WAS MUTTERING SOMETHING IN SPANISH TO HIM WHICH HE COULDN'T UNDERSTAND. DAVID THEN EXITED THE GARAGE WITHOUT FURTHER INCIDENT AND PROCEEDED TO DISPLAY HIS MIDDLE FINGER TOWARD TRAVIS AS HE WALKED SOUTHBOUND ON MACKENZIE DR.

MARLISA SAID THAT SHE DIDN'T SEE THE BUTT OF THE GUN LIKE TRAVIS DESCRIBED BUT WITNESSED HIS THREATENING MANNER TOWARD THEM AS HE ENTERED THEIR GARAGE. BOTH MARLISA AND TRAVIS SAID THAT THEY WERE WORRIED THAT DAVID MAY HAVE USED THE GUN ON THEM.

MARLISA SAID THAT DAVID WAS UPSET OVER THE RECENT BREAK-UP WITH HIS GIRLFRIEND, MELISSA FERRA. MARLISA SAID THAT DAVID THREW THE BAG OF MELISSA'S CLOTHES AT HER FEET. MARLISA ADDED THAT DAVID KNEW THAT MELISSA IS MARLISA'S COUSIN AND THAT SHE SPENDS A LOT OF TIME AT THE RESIDENCE.

I HAD AN OPPORTUNITY TO SPEAK WITH MELISSA FERRA ABOUT THE ABOVE MATTER. MELISSA SAID THAT DAVID BELIEVES THAT SHE (MELISSA) "RATTED" HIM OUT TO THE POST FALLS POLICE IN REFERENCE TO A RECENT HIT AND RUN INCIDENT (REF #10PF02397). MELISSA SAID THAT DAVID DROVE HER VEHICLE THAT NIGHT AND HASN'T SPOKEN TO HER SINCE SHE SPOKE TO THE POST FALLS POLICE.

FERRA ALSO MENTIONED THAT SHE HAS SEEN DAVID WITH A BLACK COLORED SMALL CALIBER REVOLVER IN HIS POSSESSION ON PRIOR OCCASIONS. FERRA SAID THAT SHE IS VERY CONCERNED THAT DAVID MAY USE THE GUN ON HER IF HE FINDS OUT WHERE SHE IS. FERRA DID MENTION THAT SHE WOULD BE SEEKING A PROTECTION ORDER AGAINST DAVID ON Monday.

9. ADDITIONAL INFORMATION:

SGT MARSHALL AND OFFICER BOWNE WERE UNABLE TO LOCATE DAVID IN THE AREA; HOWEVER, OFFICER SCHMECKPEPER CONTACTED DAVID'S MOTHER, LORA BEAUCHAMP, AT 801 GLACIER PEAK DRIVE. OFC SCHMECKPEPER SAID THAT DAVID HAD WALKED HOME AND ASKED HIS MOTHER TO GIVE HIM A RIDE TO A FRIEND'S HOUSE SOMEWHERE ON 2ND AVE IN POST FALLS. BEAUCHAMP WAS NOT CERTAIN WHO DAVID WAS CONTACTING BUT THAT HE REQUESTED TO BE DROPPED OFF AT 2ND AVE NEAR GREENSFERRY AVE. AT THE TIME OF THIS REPORT, DAVID HAD NOT BEEN CONTACTED.

BOTH TRAVIS AND MARLISA COMPLETED WRITTEN VOLUNTARY STATEMENTS ON THE INCIDENT AND WERE ADAMANT ABOUT PURSUING CHARGES AGAINST DAVID FOR EXHIBITION OF A DEADLY WEAPON. THEY ALSO WANTED DAVID TRESPASSED FROM 911 SHASTA AVE. I TOLD THEM THAT I WOULD PLACE THEIR RESIDENCE ON THE DRIVE-BY LIST.

10. DATE, TIME, REPORTING OFFICER

Sat Feb 20 23:55:34 PST 2010 OFC CHAPMAN K1147

11. APPROVED BY:

SGT. M. BRANTL K1120 Sun Feb 21 00:36:55 PST 2010

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I have read this report and will contact the victim for further.

Mon Feb 22 08:54:36 PST 2010 M. Goodwin, K1140

SUPPLEMENTAL BY DET. RL GUNDERSON:

02/22/10, I WILL BE TAKING OVER THE INVESTIGATION OF THIS CASE FROM DET. GOODWIN AT THIS TIME. I HAVE ALREADY BEEN ASSIGNED A CASE (#10PF02761) INVOLVING SUSPECT DAVID CURRY, WHOM IS BELIEVED TO HAVE CAUSED MALICIOUS INJURY TO PROPERTY AT 911 E. SHASTA AVENUE, POST FALLS. THE FRONT METAL DOOR SUSTAINED DAMAGE WHEN A MARKER PEN WAS USED TO WRITE THE WORD "SNITCH" ON IT. THE VICTIMS VEHICLE ALSO HAD AN OIL SUBSTANCE POURED OVER IT. THE RP, MARLISA GORDON BELIEVED THAT DAVID CURRY WAS RETALIATING AGAINST THEM BECAUSE HER COUSIN, MELISSA FERRA WAS DATING DAVID CURRY, BUT SEPERATED FROM HIM BECAUSE HE WRECKED HER VEHICLE IN A HIT & RUN ACCIDENT (CASE #10PF02397) AND FLED THE SCENE. SHE WAS RELUCTANT TO REPORT DAVID CURRY AS THE DRIVER, BUT EVENTUALLY ADMITTED THAT IT WAS DAVID DRIVING HER CAR. THE DAMAGE TO THE DOOR AND VEHICLE WAS FOUND ON THE FOLLOWING MORNING AFTER MELISSA REPORTED DAVID CURRY AS THE DRIVER WHO LEFT THE SCENE OF THE ACCIDENT.

WHILE TALKING TO MELISSA FERRA & MARLISSA GORDON ON FRIDAY (02/19) ABOUT THE DAMAGED PROPERTY CASE; THEY EXPRESSED A GREAT CONCERN AND FEAR OF DAVID. MELISSA WAS CONSIDERING A RESTRAINING ORDER TO KEEP HIM AWAY. I ASKED ABOUT WEAPONS HE MAY HAVE. MELISSA TOLD ME THAT SHE WAS AT HIS HOUSE ABOUT 30-DAYS AGO WHEN DAVID WENT TO THE GARAGE AND RETURNED TO THE BASEMENT TO PRODUCE A DARK COLORED REVOLVER. SHE SAID HE TOLD HER THE GUN HAD BELONGED TO HIS GRANDFATHER. SHE DID NOT KNOW WHAT CALIBER OF PISTOL, OR OTHER INFORMATION ABOUT IT. THAT WAS THE FIRST TIME SHE KNEW HE HAD A GUN. THERE WAS ANOTHER "FRIEND" OF DAVID'S PRESENT AT THE TIME, BUT SHE DIDN'T WANT TO NAME HIM AT THIS TIME. DAVID & JAMES BOTH LIVE IN THE RESIDENCE WITH THEIR MOTHER AND GRANDMOTHER, ACCORDING TO MELISSA.

DAVID CURRY IS A KNOWN CONVICTED FELON WHOM IS NOT AUTHORIZED TO POSSESS OR OWN FIREARMS. HIS BROTHER JAMES CURRY IS ALSO ON FELONY PROBATION AND WAS RECENTLY RELEASED FROM PRISON. HE LIVES IN THE RESIDENCE AS WELL AND ALSO CANNOT POSSESS OR OWN FIREARMS. WHEN I LEARNED THAT A GUN WAS LOCATED IN THE RESIDENCE, I IMMEDIATELY CALLED THE FELONY PROBATION & PAROLE OFFICE. I REQUESTED THAT P.O. JERRY LEMA RETURN MY PHONE CALL, WHICH HE DID.

I EXPLAINED TO JERRY LEMA THAT A GUN IS SUSPECTED TO BE HIDDEN IN THE GARAGE OF THE HOME WHERE JAMES CURRY IS CURRENTLY ON FELONY PROBATION. JERRY INDICATED HE WANTED TO DO A HOME VISIT AND WOULD BE SCHEDULING ONE ASAP. JERRY WAS CURRENTLY OFF DUTY, SO WE AGREED TO DISCUSS THIS FURTHER ON MONDAY (02/22) TO DISCUSS THIS FURTHER.

POST FALLS SPILLMAN RECORDS SHOW AN EXTENSIVE CRIMINAL RECORD FOR DAVID CURRY. SOME OF THE RELATED REPORTS FILED FOR THE FOLLOWING COMPLAINTS ARE:

#92-3847 AGGRAVATED ASSAULT
#93-567 EXHIB/USE OF DANGEROUS WEAPON
#95-6848 DISCHARGE OF FIREARM AT INHABITED RESIDENCE
#96-435 DISCHARGE OF FIREARM AT INHABITED RESIDENCE
#97-2630 PV/DISCHARGE OF FIREARM AT DWELLING
#97-4482 PV/DISCHARGE OF FIREARM AT DEWELLING

02/22/10, 15:53, I CALLED FOR MARLISSA, BUT INSTEAD SPOKE TO HER MOTHER, ROXANNE RICHEN. SHE STATED THAT SHE TOOK THE KIDS TO HER HOME THE NIGHT THIS OCCURRED. IT WAS HER BELIEF THAT DAVID HAD BEEN SERVED WITH A TRESPASS WARNING NOTICE. AFTER I DISCONNECTED, MARISSA CALLED ME. I SPOKE TO HER ABOUT THE CASE AND HER BOYFRIEND TRAVIS ESCUDERO. HE WAS CERTAIN IT WAS A GUN IN THE PANTS POCKET OF DAVID'S PANTS. HE SHOWED HIM THE BUTT OF THE GUN AND ASKED HIM WHAT DO YOU WANNA DO? HE DESCRIBED A CONFIDENCE AND DEMEANOR OF SOMEONE WHO HAD THE UPPER HAND WHEN TRAVIS ADMITTEDLY ARMED HIMSELF WITH A POLE WHEN DAVID CAME INTO THEIR HOUSE CAUSING PROBLEMS. TRAVIS STATED HE WAS IN THE MILITARY AND HAS EXPERIENCE WITH GUNS, BUT COULDN'T RECOGNIZE IF THIS WAS A REVOLVER OR SEMI - AUTO PISTOL. FURTHER PENDING. RLG

02/22/10, 16:45, I MET WITH JUDGE FRIENDLANDER AT THE K.C. COURTHOUSE TO OBTAIN A SEARCH WARRANT FOR THE RESIDENCE AT 801 E. GLACIER PEAK CT. POST FALLS. THE PURPOSE OF THE SEARCH WARRANT IS TO SEARCH THE PREMISES FOR THE FIREARM(S) SEEN IN THE TWO REPORTED INCIDENTS. THE FRUITS OF THE CRIMES OF "FELON IN POSSESSION OF A FIREARM AND UNLAWFUL DISPLAY OF A FIREARM" ARE THE OBJECT OF THE SEARCH. INCLUDED IN THE VERBAGE ARE; FIREARMS, AMMUNITION, PHOTOGRAPHS, NOTES LETTERS OR OTHER RECORDS SUPPORTING THE EVIDENCE OF POSSESSION OF A FIREARM. THE WARRANT WAS GRANTED AND IT'S MY INTENT TO SERVE THAT WARRANT IN THE MORNING (02/23). RLG

02/23/10, 07:45, OFFICER'S BRIEFED AT THE PFPD PRIOR TO RESPONDING TO THE SUSPECTS ADDRESS AT 801 E. GLACIER PEAK DR. POST FALLS.

02/23/10, 08:25, OFFICER'S MCLEAN, KNIGHT, HARMON, WILLIAMSON, FARINA, GOODWIN, MYSELF (GUNDERSON) WITH PROBATION OFFICER JERRY LEMA ARRIVED AND SERVED THE SEARCH WARRANT AT THE RESIDENCE. DAVID & JAMES CURRY WERE DETAINED IN HANDCUFFS WHILE THEIR ELDERLY GRANDMOTHER (BETTY BEACHAMP) WAS SIMPLY ASKED TO SIT ON THE COUCH. WE SEARCHED THE PREMISES AND FOUND NUMEROUS ITEMS OF CONTRABAND, INCLUDING: 3-MARIJUANA PIPES, MARIJUANA, AMMUNITION, SHANK TYPE KNIFE. A COPY OF THE SEARCH WARRANT AND PROPERTY INVENTORY WERE LEFT FOR THE HOME OWNER.

I QUESTIONED BETTY BEACHAMP ABOUT THE PISTOL REPORTEDLY BELONGING TO HER HUSBAND. SHE CONFIRMED THAT HER HUSBAND HAD A PISTOL, BUT SHE HAD NOT SEEN IT SINCE HE PASSED AWAY ON SEPT. 14TH, 2008. SHE DESCRIBED THE GUN AS A BLACK PISTOL, BUT DIDN'T KNOW MUCH MORE ABOUT IT.

WHILE AT THE HOUSE, JAMES CURRY ADMITTED TO HIS PROBATION OFFICER THAT HE HAD BEEN USING MARIJUANA RECENTLY AND BOTH JAMES AND DAVID CLAIMED THE PIPES AND MARIJUANA FOUND IN THE GARAGE BELONGED TO THEIR STEP-DAD, RANDALL. JAMES ALSO REPORTED TO HIS PROBATION OFFICER THAT DAVID HAD TOLD HIM HE WROTE THE WORD "SNITCH" ON THE DOOR OF MARLISSA'S HOUSE AND POURED SOME OIL ON HER VAN. JAMES ALSO REPORTED OVER HEARING A COVERSATION BETWEEN DAVID AND HIS FRIEND SCOTTY ARNOLD TALKING ABOUT A GUN. JAMES SAID HE HEARD DAVID TELLING HIM HE NEEDED TO GET RID OF A GUN FOR AWHILE. WE INITIALLY LEFT THE RESIDENCE, UNABLE TO LOCATE THE GUN.

DAVID CURRY WAS TRANSPORTED TO THE PFPD FOR FURTHER QUESTIONING ABOUT THE CASES UNDER INVESTIGATION. OFFICER HOPE TUCKER ARRIVED TO COMPLETE THE TRANSPORT OF CURRY TO THE PD.

02/23/10, 09:53, I MET WITH DAVID CURRY IN THE INTERVIEW ROOM. I ADVISED HIM OF HIS MIRANDA RIGHTS AND DAVID UNDERSTOOD THE RIGHTS AND AGREED TO WAIVE HIS RIGHTS TO TALK TO ME ABOUT THE CASES. I BEGAN BY TALKING ABOUT THE HIT & RUN DRIVING OFFENSE INVOLVING MELISSA FERRA'S CAR. HE DENIED THAT HE WAS THE DRIVER OF THE CAR.

I NEXT QUESTIONED HIM ABOUT THE MALICIOUS INJURY TO PROPERTY CASE INVOLVING THE DAMAGE TO THE DOOR & VAN AT 911 E. SHASTA DR. POST FALLS. CURRY BEGAN TO DENY THIS AS WELL AND CLAIMED THIS MOMENT WAS THE FIRST HE HEARD OF IT. I TOLD HIM HIS BROTHER KNEW THE WORD "SNITCH" WAS WRITTEN ON THE DOOR AND ASKED HOW HE WOULD HAVE KNOWN THAT. DAVID THOUGHT FOR A MOMENT, THEN ADMITTED HE DID DO THAT. I ASKED WHAT HE USED TO WRITE ON THE DOOR. DAVID STATED IT WAS A BLACK "SHARPIE" MARKER. I ASKED HIM WHAT OIL WAS USED AND IF HE BROUGHT IT TO THE SCENE. HE INDICATED IT WAS SOME OIL THAT WAS THERE BY THE GARAGE.

I ASKED ABOUT HIS FRIEND, "SCOTTY" WHO LIVES ON 2ND AVENUE. HE CONFIRMED IT WAS SCOTTY ARNOLD, BUT DENIED TELLING SCOTTY THAT HE NEEDED TO GET RID OF A GUN FOR AWHILE.

I QUESTIONED HIM ABOUT THE INCIDENT ON Saturday (02/20) WHEN DAVID REPORTEDLY WENT TO MARLISSA'S HOUSE. HE ADMITTED HE WENT THERE TO TAKE MELISSA'S CLOTHES BACK TO HER. HE SAID, "HERE'S MELISSA'S SHIT" AND TALKED TO MELISSA & TRAVIS ABOUT \$100.00 THEY OWE HIM. I ASKED WHY THEY OWE HIM MONEY. HE CLAIMED HE LOANED THEM \$100.00 FOR GAS/ BILLS LAST SUMMER. IT WAS MY UNDERSTANDING THAT DAVID HADN'T WORKED FOR AN EXTENDED PERIOD OF TIME, SO I QUESTIONED WHERE HE OBTAINED \$100.00 TO LOAN TO OTHERS AND WHEN HE LAST WORKED. HE SAID LAST WORKED November BEFORE LAST (11/08) AND WORKED AT THE GRANITE COMPANY NEXT TO THE POLICE DEPARTMENT FOR 2-YEARS.

DAVID SAID HE KNOWS TRAVIS AND CLAIMED THIS WAS ALL A VERBAL CONFRONTATION ONLY. HE DESCRIBED HOW HE WENT INTO THEIR GARAGE AND THREW THE CLOTHES DOWN AND TRAVIS GRABBED SOMETHING IN HIS HANDS WHICH WAS RED LOOKING. DAVID DENIED THAT HE HAD A GUN ON HIM, OR SHOWED TRAVIS THE BUTT OF A GUN, HE JUST TURNED AND LEFT.

I ASKED DAVID ABOUT THE WHEREABOUTS OF HIS GRANDPA'S GUN. HE CLAIMED HE DIDN'T KNOW. DAVID OFFERED TO TAKE A LIE-DETECTOR TEST TO CONFIRM HE DID NOT HAVE A GUN WHEN HE WENT TO MARLISSA'S HOUSE, BUT ALSO WOULD NOT TAKE ONE IF ASKED IF HE SHOWED THE GUN TO MELISSA FERRA AND ANOTHER INDIVIDUAL AT HIS HOUSE.

I ASKED FOR A DESCRIPTION OF THE GUN OWNED BY HIS GRANDFATHER. HE SAID IT WAS A BLACK KOREAN WAR ERA SEMI-AUTO PISTOL WITH A LONG SKINNY BARREL, .22 CALIBER LUGER STYLE GUN. HE SAID GRANDPA ONLY HAD ONE GUN AS FAR AS HE KNOWS.

I ASKED HIM ABOUT A RIFLE ROUND OF AMMUNITION FOUND IN HIS ROOM. HE SAID HE GOT IT FROM SCOTTY ARNOLD WHEN HE ASKED HIM IF HE COULD HAVE IT. IT WAS FROM ONE OF SCOTTY'S DAD'S RIFLES, ACCORDING TO DAVID.

WE TALKED ABOUT THE MARIJUANA FOUND IN THE GARAGE. HE CONFIRMED IT BELONGS TO RANDY (STEP-DAD), BUT ADMITTED THAT HE SMOKES POT WITH RANDY, "ONCE IN A WHILE".

BECAUSE DAVID'S GRANDFATHER DID HAVE A FIREARM THAT IS APPARENTLY NOW UNACCOUNTED FOR, AND MELISSA FERRA DESCRIBED A BLACK PISTOL IN DAVID'S POSSESSION; WHICH HE CLAIMED HAD BELONGED TO HIS GRANDFATHER, I BELIEVED THAT MELISSA WAS BEING TRUTHFUL WITH ME WITH REGARDS TO WHAT SHE WITNESSED. I FURTHER BELIEVED THAT TRAVIS ESCUDERO, A MAN WITH U.S. MILITARY EXPERIENCE, POSITIVELY IDENTIFIED AND APPROPRIATELY REACTED WHEN HE CLAIM TO HAVE SEEN DAVID IN POSSESSION OF A PISTOL ON THE NIGHT OF 02/20 AT 911 E. SHASTA AVE. PF. IN THAT CASE, DAVID CREATED A DISTURBANCE OF THE PEACE BY HIS ACTIONS OF THROWING THE BAG OF CLOTHING, KICKING A TABLE, CONFRONTATIONAL DEMEANOR, CAUSING MARLISSA TO CALL THE POLICE FOR HELP. DAVID CURRY ALSO ADMITTED TO ME THAT HE HAD WRITTEN THE WORD "SNITCH" ON MARLISSA'S DOOR AND POURED THE OIL ON HER VEHICLE.

I HAD OFFICER PETER MCMANUS ASSIST ME BY TRANSPORTING DAVID CURRY TO THE POLICE

DEPARTMENT FOR BOOKING ON THE CHARGE OF POSSESSING A FIREARM AS A FELON
I.C.#18-3316 (SEE CRIMINAL RECORD ATTACHED).

ONCE AT THE JAIL I ALSO CHARGED HIM WITH CITATION #74471 FOR THE OFFENSES OF
UNLAWFUL ENTRY, I.C.#18-7034 AND DISTURBING THE PEACE, I.C.#18-6409.

CITATION #74472 WAS ISSUED FOR MALICIOUS INJURY TO PROPERTY, I.C.#18-7001. HE
WAS HAND SERVED BOTH CITATIONS BY ME, THEN THEY WERE SECURED INTO HIS JAIL
PROPERTY.

02/23/10, 13:15, I RETURNED TO THE PD AND RECEIVED A PHONE CALL FROM LORA
BEAUCHAMP, (DAVID'S MOTHER). SHE ADVISED ME THAT HER FATHER'S GUN IS STILL IN
THE HOUSE IN HER CLOSET. SHE HAD RESPONDED HOME AFTER HER MOTHER TOLD HER THAT
THE POLICE HAD BEEN THERE AND SHE CHECKED THE BOX OF PAPERS IN THE MASTER CLOSET
AND GUN WAS STILL THERE. SHE DIDN'T KNOW WHAT TO DO WITH IT. I TOLD HER I WOULD
RESPOND AND CHECK WHERE THE GUN WAS LOCATED. DET. HARMON AND I RESPONDED AND MET
WITH LORA AT THE HOUSE. SHE INVITED US INTO THE HOUSE AND WAS ANXIOUS FOR US TO
TAKE THE GUN AWAY. SHE SAID SHE DIDN'T TAKE IT OUT, SHE JUST LEFT IT IN THERE.
LORA EXPLAINED THAT SHE HAD BEEN KEEPING THE GUN IN HER CLOSET BECAUSE SHE
DIDN'T KNOW WHAT TO DO ABOUT IT. SHE WAS AWARE SHE COULD NOT HAVE IT IN THE
HOUSE WITH HER SON JAMES ON FELONY PROBATION, BUT DIDN'T KNOW IF DAVID KNEW
WHERE IT WAS AT SHE DIDN'T KNOW WHAT TO DO WITH IT.

THE GUN WAS OVERLOOKED BY OFFICERS INITIALLY BECAUSE IT WAS IN THE BOTTOM OF A
BOX CONTAINING TAX PAPERWORK AND SEEMED TO BE AN UNLIKELY PLACE FOR A GUN TO BE
KEPT. I SEIZED THE GUN AND ADDED IT TO THE INVENTORY LIST OF PROPERTY. THE GUN
INVOLVED IS A .22 CAL. "ERMA WERKE" MODEL KGP69 W/ SERIAL #304063. THE PISOL HAD
AN AMMUNITION MAGAZINE (CLIP) CONTAINING 8-LIVE ROUNDS OF RIM FIRE .22 CAL.
BULLETS.

DET. HARMON AND I THEN RESPONDED TO 911 E. SHASTA DR. TO CONTACT MELISSA FERRA,
MARLISA GORDON AND TRAVIS ESCUDERO. I SHOWED THE SEIZED PISTOL TO MELISSA FERRA
AND SHE CONFIRMED THAT WAS THE GUN THAT DAVID HAD SHOWED TO HER AT THE HOUSE. I
ASKED ABOUT THE LEATHER HOLTER WITH IT. SHE DIDN'T SEE THAT, ONLY THE GUN. I
ASKED MELISSA FERRA IF SHE WOULD PROVIDE ME WITH A WRITTEN STATEMENT. SHE NOW
SEEMED UPSET AND SAID NO SHE WOULDN'T PROVIDE A WRITTEN STATEMENT. AS SHE TURNED
AND WALKED AWAY I COULD SEE TEARS FORMING IN HER EYES. MARLISA GORDON TOLD US
THAT MELISSA WAS TRYING TO WORK IT OUT WITH DAVID, SO SHE'S UPSET.

I ALSO TALKED TO TRAVIS ESCUDERO AND SHOWED HIM THE PISTOL. HE COULD NOT BE SURE
IF THAT WAS THE GUN DAVID HAD, SINCE HE AGAIN ONLY SAW THE BUTT OF THE GUN. THE
BUTT OF THIS GUN IS BLACK METAL W/ DARK BROWN GRIPS. IN DIM LIGHTING THE WHOLE
GUN BUTT ALSO COULD APPEAR BLACK. I ADVISED MARLISA THAT DAVID CURRY DID CONFESS
TO CAUSING THE DAMAGE TO HER PROPERTY AND WAS CITED FOR THAT. HE WAS ALSO
CHARGED WITH UNLAWFUL ENTRY INTO HER HOUSE AND DISTURBING THE PEACE FOR THE
OFFENSES RELATED TO THEM.

EVIDENCE AND PAPERWORK INVOLVED IN THE INVESTIGATION AND ARREST ARE ATTACHED
TO THIS REPORT; OR WILL BE SECURED INTO THE PFPD EVIDENCE SYSTEM.

Responsible LEO:

016

02/23/10

Approved by:

Date

017

02/23/10

PRE-BOOKING INFORMATION SHEET
KOOTENAI COUNTY PUBLIC SAFETY BUILDING

Booking # _____

Name ID # _____ Date 02-23-10

ARRESTEE:

Name CURRY, DAVIN LOREN

AKA _____ Last First Middle

Address 801 GLACIER PEAK DR.

City POST FALLS ST ID Zip 83854

Home Phone 777-4188 SS# 537-828218

City/State of Birth NEWISTON, IDAHO DOB 11/03/75

D.L. # UNK State ID Occupation _____ Work Phone # N/A

PHYSICAL DESCRIPTION:

Height 5'10" Weight 165 Sex M Hair BRO Eyes GRN

Race W Glasses Y Contacts Y Facial Hair YES BEARD

Scars, Marks, Tattoo's TAT - LEFT ARM SKULL W/ BILLS / RIGHT ARM SKULL
WIZARD / WOMAN'S FACE

Clothing Description RED SHORTS / RED SHIRT

ARRESTING OFFICER INFORMATION:

Date / Time of Arrest 02-23-10 / 0830 Location 801 E. GLACIER PEAK Dist 27

Arresting Officer GUNDERSON # K1137 Agency POST FALLS Arrival at PSB 1123

CHARGES AND BAIL: ARREST TYPE (ON-VIEW) (WRNT) (CITIZEN) (OTHER)

M/F	Code	Charges	Bail	Sentence	Warrant or Case #
1. F	18-3316	FELON-POSSESS FIREARM			
2.					
3.					
4.					
5.					
6.					

Is the arresting officer aware of any mental or physical conditions this inmate may have which might affect his/her safety or ability to be held without special attention by jail staff? ☒ No, ☐ Yes (Explain): _____

VEHICLE INFORMATION:

Vehicle Lic. _____ ST _____ YR _____ Make _____ Model _____ Body _____ Color(s) _____

Vehicle Disposition _____

CITIZEN ARREST:

I hereby arrest the above named suspect on the charge(s) indicated and request a peace officer to take him - her into custody. I will appear as directed and sign a complaint against the person I have arrested.

Arresting Person Signature		Address		Phone #	
Arresting Persons Name (printed)		Race	Sex	DOB	Employer
Officer	ID #	Approved By	ID #	Date	

VICTIM'S RIGHTS INFORMATION: Code: P=Physical Inj. T=Threat of Phy. Inj. S=Sexual Offense

Name:	Code	Mult. Victims	Address:	Phone:
Occupation:	Race/Sex	Age	DOB	Business Address:

Accepted by: <u>2214</u>
Agency Case # <u>10PF0294</u>
BAC: <u>1</u>
Warrant Check _____
Prob. Check _____
Prob. Officer _____
Locker # <u>209</u>
Location _____
Hold For: _____
For DUI Charge: _____
Was Call Requested _____
Was Call Made _____

ORIGINAL

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2010 FEB 24 AM 11:12

BARRY McHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83816-9000
Telephone: (208) 446-1800
Facsimile: (208) 446-1833

CLERK DISTRICT COURT
[Signature]
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,
vs.

DAVID LOREN CURRY
DOB: [REDACTED]
SSN: [REDACTED]
Defendant.

Case No. CR-F10- 3359

CRIMINAL COMPLAINT

Agency Case: 10PF02947

RL GUNDERSEN, appeared personally before me, and being first duly sworn on oath, that the above-named Defendant did commit the crime(s) of **COUNT I: BURGLARY**, a felony, Idaho Code § 18-1401; **COUNT II: AGGRAVATED ASSAULT**, a felony, Idaho Code §§ 18-901, 18-905; and **COUNT III: UNLAWFUL POSSESSION OF A FIREARM**, a felony, Idaho Code §18-3316, as follows:

COUNT I

That the Defendant, DAVID LOREN CURRY, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did enter into the garage of a certain home, to-wit: a residence located at 911 Shasta Avenue, Post Falls, with the intent to commit the crime of witness intimidation and/or aggravated assault;

COUNT II

That the Defendant, DAVID LOREN CURRY, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word or act to do violence upon the person of Travis Escudero with a deadly weapon, to-wit: a handgun, which created a well-founded fear in said person that such violence was imminent; and

COUNT III

That the Defendant, DAVID LOREN CURRY, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did possess and/or have under his custody or control a firearm, to wit: a handgun, knowing that he has been convicted of discharging a firearm at an occupied house, a felony crime, on or about 1997, and unlawful possession of a firearm, a felony crime, on or about 2006, both offenses having occurred in Kootenai County, Idaho, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the people of the State of Idaho. Said complainant therefore prays for proceedings according to law.

PART II

The Prosecuting Attorney further informs the Court that the defendant, DAVID LOREN CURRY, while committing the offense of BURGLARY; AGGRAVATED ASSAULT, and UNLAWFUL POSSESSION OF A FIREARM as charged in the Complaint, had previously been convicted of at least two (2) prior separate felony offenses, and, pursuant to I.C. §19-2514, is properly considered a persistent violator. Defendant's previous convictions consist of the following felony offenses:

- 1) DISCHARGE A FIREARM AT A HOUSE, OCCUPIED BUILDING, Kootenai County, Idaho, Case #CR-1995-7625, convicted on 12/26/1997;

- 2) UNLAWFUL POSSESSION OF A FIREARM, Kootenai County, Idaho, Case #CR-2006-5304, convicted on 03/16/2006; and
- 3) FORGERY, Kootenai County, Idaho, Case #Cr-2005-16804, convicted on 08/08/2006.

DATED this 24th day of FEB., 2010.


COMPLAINANT

SUBSCRIBED AND SWORN to before me this 24 day of FEB, 2010.


MAGISTRATE

IDAHO UNIFORM CITATION

IN THE DISTRICT COURT OF THE 1ST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
STATE OF IDAHO

PF 74472

Curry, VS

DAVID LOREN

COMPLAINT AND SUMMONS

☐ Infraction Citation

OR

☒ Misdemeanor Citation☐ Accident Involved

IPUC #

USDOT TK Census #

☐ Operator ☐ Class A ☐ Class B ☐ Class C ☒ Class D ☐ Other☐ GVWR 26001 ☐ 16 + Persons ☐ Placard Hazardous Materials ☐ DR#

Home Address 801 E. GLACIER PEAK DR POST FALLS, ID

Business Address Ph # 777-4188

THE UNDERSIGNED OFFICER (PARTY) HEREBY CERTIFIES AND SAYS:

I certify I have reasonable grounds and believe the above-named Defendant.

Height 5-10 Wt. 165 Hair BND Eyes GRN DOB

Veh. Lic.# State Yr. of Vehicle Make

Model Color

Did commit the following act(s) on FEB 17th 2010 at 2300 o'clock P M.

Vio. #1 MALICIOUS INJURY TO PROPERTY
(DOOR & VEHICLE DAMAGE) #18-7001

Vio. #2

Location 911 E. SIESTA AVE POST FALLS, ID.

Hwy. KOOTENAI County, Idaho

Date 02-23-10 R GUNDERSON #1137 POST FALLS

Date Officer/Party Serial #/Address Dept.

Date Witnessing Officer Serial #/Address Dept.

THE STATE OF IDAHO TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to appear before the Clerk of the Magistrate's Court of the

District Court of KOOTENAI County, COEUR d'ALENE Idaho,

located at 324 W. GARDEN on or after FEB 25th 2010

but on or before MAR 16th 2010 at 5:00 o'clock P.M.

I acknowledge receipt of this summons and I promise to appear at the time indicated.

N

I hereby certify service upon the defendant personally on FEB 23rd 2010

K1137 @ P.S.B.

OFFICER

NOTICE: See reverse side of your copy for PENALTY and COMPLIANCE instructions.

COURT COPY VIOLATION #1

IDAHO UNIFORM CITATION

IN THE DISTRICT COURT OF THE 1ST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
STATE OF IDAHO

PF 74471

Curry, VS

DAVID LOREN

COMPLAINT AND SUMMONS

☐ Infraction Citation

OR

☒ Misdemeanor Citation☐ Accident Involved

IPUC #

USDOT TK Census #

☐ Operator ☐ Class A ☐ Class B ☐ Class C ☒ Class D ☐ Other☐ GVWR 26001 ☐ 16 + Persons ☐ Placard Hazardous Materials ☐ DR#

Home Address 801 E. GLACIER PEAK DR POST FALLS, ID

Business Address Ph # 777-4188

THE UNDERSIGNED OFFICER (PARTY) HEREBY CERTIFIES AND SAYS:

I certify I have reasonable grounds and believe the above-named Defendant.

Height 5-10 Wt. 165 Hair BND Eyes GRN DOB

Veh. Lic.# State Yr. of Vehicle Make

Model Color

Did commit the following act(s) on FEB 20th 2010 at 1800 o'clock P M.

Vio. #1 UNLAWFUL ENTRY
#18-7034Vio. #2 DISTURBING THE PEACE
#18-6459

Location 911 E. SIESTA AVE POST FALLS, ID.

Hwy. KOOTENAI County, Idaho

Date 02-23-10 R GUNDERSON #1137 POST FALLS

Date Officer/Party Serial #/Address Dept.

Date Witnessing Officer Serial #/Address Dept.

THE STATE OF IDAHO TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to appear before the Clerk of the Magistrate's Court of the

District Court of KOOTENAI County, COEUR d'ALENE Idaho,

located at 324 W. GARDEN on or after FEB 25th 2010

but on or before MARCH 16th 2010 at 5:00 o'clock P.M.

I acknowledge receipt of this summons and I promise to appear at the time indicated.

I hereby certify service upon the defendant personally on FEB 23rd 2010

K1137 @ P.S.B.

OFFICER

NOTICE: See reverse side of your copy for PENALTY and COMPLIANCE instructions.

COURT COPY VIOLATION #1

Court Minutes:

Session: WATSON022410I
Session Date: 02/24/2010
Judge: Watson, Barry
Reporter:

Division: MAG
Session Time: 13:44

Courtroom: Courtroom5

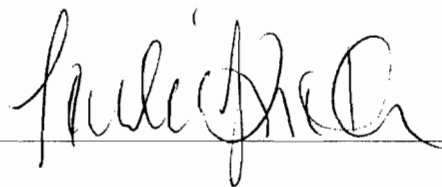
Clerk(s): Smith, Leslie

State Attorney(s): Laird, Terri

Public Defender(s):

Prob. Officer(s):

Court interpreter(s):



Case ID: 0006

Case number: CR2010-3389
Plaintiff:
Plaintiff Attorney:
Defendant: CURRY, DAVID
Pers. Attorney:
Co-Defendant(s):
State Attorney: Laird, Terri
Public Defender:

02/24/2010

14:33:10

Recording Started:

14:33:10

Case called

14:33:14

Judge: Watson, Barry
FIRST APPEARANCE/ARRAIGNMENT-IN CUSTODY

14:33:16

Defendant: CURRY, DAVID

UNDERSTOOD RIGHTS

14:33:21 **Judge: Watson, Barry**
CONSOLIDATING CHARGES

14:33:50 PD APPTD

14:34:08 PH TO BE SET 14 DAYS

14:34:25 REV CHARGES/ALLEGATIONS

14:35:12 **Defendant: CURRY, DAVID**
UNDERSTAND FELONY CHARGES

14:35:39 **Judge: Watson, Barry**
REV PART II OF COMPLAINT AND ENHANCEMENTS
EXPLAINED

14:36:39 **Defendant: CURRY, DAVID**
UNDERSTAND PART II ENHANCEMENTS

14:36:48 **Judge: Watson, Barry**
REV MISD CHARGES

14:37:20 CONCERNED W/MISD CHARGE OF UNLAWFUL ENTRY AND
THE FELONY CHARGE OF BURGLARY

14:37:39 WOULD LIKE PA TO LOOK INTO THIS

14:37:56 REV PENALTIES

14:38:03 **Defendant: CURRY, DAVID**
UNDERSTAND MISD CHARGES

14:38:12 **State Attorney: Laird, Terri**
\$100K BOND/NCO REQUEST W/ALL VICTIMS INCLUDING
THE RESIDENCE

14:38:47 CR HISTORY/SERIOUSNESS OF THE CHARGES; FEL
PROBATION; USE OF FIREARM IN

14:39:11 ALLEGED OFFENSES AND DOES APPEAR AVOIDANCE OF
ARREST

14:39:46 **Judge: Watson, Barry**
NCO ISSUED W/CONDITIONS RVD;

14:40:19 **Defendant: CURRY, DAVID**

14:40:44 **Judge: Watson, Barry**
REV CR HISTORY AND SET BOND AT \$100K
W/CONDITIONS REV'D

14:41:13 **Defendant: CURRY, DAVID**

14:41:36 **Judge: Watson, Barry**
REPORT TO PTS'S IF YOU DO BOND W/IN 24 HRS OF
RELEASE

14:41:52 **Defendant: CURRY, DAVID**
UNDERSTAND TERMS AND ACCEPT THEM

14:42:22 **Stop recording**

FIRST JUDICIAL DISTRICT, STATE OF IDAHO
KOOTENAI COUNTY DISTRICT COURT

STATE OF IDAHO
Plaintiff

vs. Curry, David
Defendant

State of Idaho } ss
County of Kootenai }
ORDER
Filed 2-24-10
At 2 o'clock P. M.
CLERK OF THE COURT
BY: [Signature]
Deputy

State of Idaho } ss
County of Kootenai }
RETURN OF SERVICE
Filed _____
At _____ o'clock _____ M.
CLERK OF THE COURT
BY: _____
Deputy

Case No. CRF10-3389

Citation No. _____

Arresting Agency PF

NO CONTACT ORDER

Defendant, having been charged with violating Idaho Code Section(s):

- ☐ 18-918 Domestic Assault or Domestic Battery ☐ 18-7905 Stalking ☐ 18-901 Assault ☐ 18-903 Battery
☐ 39-6312 Violation of a Protection Order ☒ 18-905 Aggravated Assault ☐ 18-907 Aggravated Battery
☐ 18-923 Attempted Strangulation ☐ Other: _____

against the ALLEGED VICTIM(s) TRAVIS ESCUDERO

THE COURT, having jurisdiction, and having provided the Defendant with notice of his/her opportunity to be heard, either previously or herein, **ORDERS THE DEFENDANT TO HAVE NO DIRECT OR INDIRECT CONTACT WITH THE ALLEGED VICTIM, unless through an attorney.** You may not harass, follow, contact, attempt to contact, communicate with (in any form or by any means including another person), or knowingly go or remain within 300 feet of the alleged victim's person, property, residence, workplace or school. This order is issued under Idaho Code 18-920, Idaho Criminal Rule 46.2 and First District Administrative Order H2005-DW.1

IF THIS ORDER REQUIRES YOU TO LEAVE A RESIDENCE SHARED WITH THE ALLEGED VICTIM, you must contact an appropriate law enforcement agency for an officer to accompany you while you remove any necessary personal belongings, including any tools required for your work. If disputed, the officer will make a preliminary determination as to what are necessary personal belongings; and in addition, may restrict or reschedule the time spent on the premises.

VIOLATION OF THIS ORDER IS A SEPARATE CRIME UNDER Idaho Code 18-920 for which bail will be set by a judge; it is subject to a penalty of up to one year in jail and up to a \$1,000 fine. THIS ORDER CAN ONLY BE MODIFIED BY A JUDGE AND WILL REMAIN IN EFFECT UNTIL 11:59 P.M. ON 2-23-11, OR UNTIL THIS CASE IS DISMISSED.

If a **DOMESTIC VIOLENCE (CIVIL) PROTECTION ORDER IS IN PLACE PURSUANT TO IDAHO'S DOMESTIC VIOLENCE CRIME PREVENTION ACT** (Title 39, Chapter 63 of the Idaho Code), the most restrictive of any conflicting provisions between the orders will control; however, entry or dismissal of another order shall not result in dismissal of this order.

NOTICE TO ALLEGED VICTIMS OF RIGHT TO A HEARING: As an alleged victim, you have the right to a hearing before a Judge on the continuation of this Order within a reasonable time of its issuance. To request that hearing, and TO AVOID GIVING UP THIS RIGHT you must contact the Clerk of Court, Kootenai County Courthouse, 324 W. Garden Ave., Coeur d'Alene, ID 83814. Phone Number 208-446-1170.

The Clerk of the Court shall give written notification to the sheriff's office in the county of issuance IMMEDIATELY and this order shall be entered into the Idaho Law Enforcement Telecommunications System.

2-24-10
Date of Order

[Signature]
JUDGE

I acknowledge having read and received this order.

Date of Service on Defendant

DEFENDANT

[] Ordered / Served in open court

Faxed to: ☒ Jail Booking 208-446-1407 for service on defendant prior to release from custody (KCSO must return defendant's signed copy to court & forward a copy signed by defendant to arresting agency & KCSO Records)

☐ Agency (Court ONLY sends copy to agency if faxing NCO after 5 pm)

Interoffice to: ☒ Prosecutor ☐ KCPA ☐ Cd'A PA ☐ PFPA ☐ Rathdrum PA ☐ Public Defender

Mailed to: ☐ Victim

☐ Defense Attorney

[Signature]
Deputy Clerk

Travis Escudero
911 E. Shasta
PF ID 83854

2/24/10
Date

026

STATE OF IDAHO }ss
COUNTY OF KOOTENAI
FILED 2-24-10
AT 2:00 O'CLOCK P m
CLERK DISTRICT COURT
Julie Smith
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO Plaintiff v. <u>Curry, David</u> Defendant	CASE NO. CR- <u>10-3389</u> ORDER SETTING BAIL or RELEASE ON OWN RECOGNIZANCE and CONDITIONS
---	--

The above case having come before the Court on the below date and the Court having considered the factors in I.C.R. 46, now therefore,

IT IS HEREBY ORDERED that bail be set in the amount of \$ 100,000.00
and the following are established as the conditions of release:

THE DEFENDANT SHALL:

- ☒ Commit no new criminal offenses greater than an infraction (a finding of probable cause on a subsequent offense is sufficient to revoke bail);
- ☒ Sign waiver of extradition and file with the Court;
- ☒ Make all court appearances timely;
- ☒ Do NOT consume alcohol or controlled substances;
- ☒ Promptly notify the Court and defense counsel of any change of address;
- ☒ Maintain regular contact with defense counsel;
- ☐ Do NOT drive, operate or be in physical control of a motor vehicle without a valid license and insurance;
- ☐ Obtain a Substance Abuse/Batterer's Evaluation from an approved evaluator by: _____
- ☐ Submit to urinalysis testing _____ times monthly through [] Global (address/phone below)
[] Other _____ and authorize results to be provided to
☐ Court, ☐ Prosecuting Attorney's office ☐ Public Defender/Defense Attorney _____
- ☒ Report to Pre-trial Services, 106 E. Dalton Ave., Coeur d'Alene, ID, 446-1985; WIN 24 HRS OF RELEASE
- ☒ Other: OBEY N.C.O.

Defendant has acknowledged these conditions in open court, and is advised that a violation of any term may result in the defendant being returned to jail.

Copies sent 2/24/10 To:

- ☒ Prosecutor KC [] in court ☒ interoffice
☒ Defense Counsel PD [] in court ☒ interoffice
☒ Defendant [] in court [] interoffice

☒ Jail FAX 446-1407

☒ Pre-trial Services FAX: 446-1990

☐ Global FAX: 664-6045, 2201 Govt. Way, Suite C, CD'A, ID, Ph: 664-6299

☐ Other _____

Date: _____

Judge _____

027

**MUST BE COMPLETED
TO BE CONSIDERED**

Filed 2-24-10 AT 2 p m.
CLERK OF THE DISTRICT COURT
BY [Signature] DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

APPLICATION FOR: David Curry
☒ DEFENDANT ☐ JUVENILE ☐ CHILD ☐ PARENT
DOB [REDACTED]
BY _____
PARENT or GUARDIAN OF MINOR
DOB _____

CASE NO. CRFID-3359

FINANCIAL STATEMENT AND ORDER

NOTE: If this application is being made on behalf of a minor, please answer the following questions as they apply to his/her parents or legal guardian. Include information for you and your spouse.

I, the above named defendant (or the parent(s) on behalf of a minor), being first duly sworn on oath, depose and say in support of my request for court appointed counsel:

My current mailing address is: 801 Glacier Peak Post Falls ID 83854
Street or P.O. Box City State Zip Code

My current telephone number or message phone is: (208) 777-4188

Crimes Charged: Poss. Firearm

I request the Court appoint counsel at county expense; and I agree to reimburse the county for the cost of said defense, in the sum and upon the terms as the Court may order.

BELOW IS A TRUE AND CORRECT STATEMENT OF MY FINANCIAL CONDITION:

1. EMPLOYMENT:

A. Employed: yes ☒ no B. Spouse Employed: yes ☐ no
C. If not employed, or self-employed, last date of employment 11-3-08
D. My employer is: _____
Address: _____

2. HOUSEHOLD INCOME MONTHLY (Include income of spouse):

Wages before deductions	\$ <u>2</u>	Other income: (Specify: Child Support, S.S., V.S., A.D.C.,	
Less Deductions	\$ <u>2</u>	Food Stamps, Etc.)	
Net Monthly Wages	\$ <u>2</u>	<u>Food Stamps</u>	\$ <u>200.00</u>

3. HOUSEHOLD EXPENSES MONTHLY:

Rent or Mortgage Payment	\$ <u>2</u>	Child Care	\$ <u>2</u>
Utilities	\$ <u>2</u>	Recreation	\$ <u>2</u>
Clothing	\$ <u>2</u>	Medical	\$ <u>2</u>
Transportation	\$ <u>2</u>	Insurance	\$ <u>2</u>
School	\$ <u>2</u>	Other (Specify)	\$ <u>2</u>
Food	\$ <u>200.00</u>		

3. HOUSEHOLD EXPENSES MONTHLY: (cont.)

DEBTS: Creditor X Total \$ _____ \$ _____ per mo
Creditor X Total \$ _____ \$ _____ per mo
Creditor X Total \$ _____ \$ _____ per mo

4. ASSETS:

A. I (we) have cash on hand or in banks \$ X
B. I (we) own personal property valued at \$ X 100.00
C. I (we) own vehicle(s) valued at \$ X
D. I (we) own real property valued at \$ X
E. I (we) own stocks, bonds, securities, or interest therein \$ X

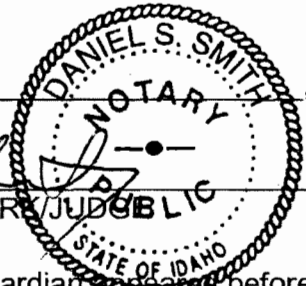
5. THE FOLLOWING ALSO AFFECTS MY FINANCIAL CONDITION (Specify): Child Support \$105.00
\$2000.00 Behind

6. DEPENDENTS: 1 self _____ spouse _____ children _____ other (specify) _____
(number)

[Signature]
APPLICANT

Subscribed and sworn to before me this 24th day of February, 20 10.

[Signature]
NOTARY PUBLIC/CLERK



The above named X defendant _____ parent _____ guardian _____ before the court on the aforesaid charge and requested the aid of counsel. The court having considered the foregoing, and having personally examined the applicant; X **ORDERS** _____ **DENIES** the appointment of the service of counsel.

The applicant is ordered to pay \$ _____ monthly beginning _____, 20 _____ for the cost of appointed counsel. Payments are to continue until _____

[] notified by the court that no further amount is due.

[] the sum of \$ _____ has been paid.

THE APPLICANT IS ORDERED TO PAY REIMBURSEMENT FOR THE COST OF APPOINTED COUNSEL AT THE CONCLUSION OF THE CASE; THIS AMOUNT MAY BE IN ADDITION TO ANY SUMS ORDERED ABOVE.

ENTERED this 24 day of FEB, 20 10.

[Signature]
JUDGE

Custody Status: ✓ In _____ Out

Copies to:

[✓] Prosecuting Attorney KC

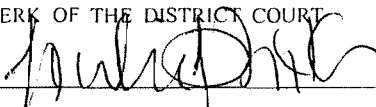
[X] Public Defender

Bond \$ 100,000

Date

2-24-10
Deputy Clerk

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
MAGISTRATE'S DIVISION

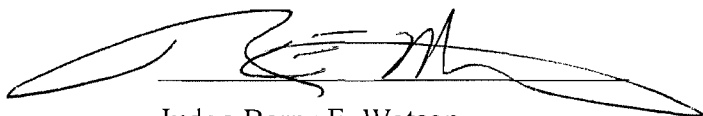
FILED 2/24/2010 AT 11:26 AM
STATE OF IDAHO, COUNTY OF KOOTENAI SS
CLERK OF THE DISTRICT COURT
BY  DEPUTY

STATE OF IDAHO, Plaintiff, v. <u>David Loren Curry,</u> Defendant.	CASE NO. CR-2010-0003389 And 74471 & 74472 ORDER CONSOLIDATING CASES
--	--

The above matters having come regularly before the Court on the date entered below; it appearing that these cases arise from the same set of facts, acts or transaction(s); it appearing that a consolidation, or joinder, of the cases would result in judicial economy and fewer hearings and trials for the parties, attorneys and witnesses; now therefore,

IT IS HEREBY ORDERED, that the charge(s) in CR-2010-0003389 and the charge(s) in be consolidated and joined together pursuant to I.C.R. 8(a) for all further proceedings. All future filings shall be in CR-2010-0003389 and any amended complaints or information(s) shall contain **all** charges related to the within incident(s). The case shall be closed.

ENTERED Wednesday, February 24, 2010.


Judge Barry E. Watson

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent Wednesday,
February 24, 2010 by me as follows:

Kootenai County Prosecutor

[] Fax (208) 446-1833

[☒] Interoffice Delivery

FAX: *PD*

[] Faxed

[☒] Interoffice Delivery

[] Mailed


Deputy Clerk

BARRY MCHUGH
PROSECUTING ATTORNEY
501 GOVERNMENT WAY/BOX 9000
COEUR D' ALENE, IDAHO 83816-1871
Telephone: (208) 446-1300

STATE OF IDAHO
COUNTY OF KOOTENAI } ss
FILED:

2010 FEB 25 AM 11:11

CLERK DISTRICT COURT

Cindy O'Reilly

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF IDAHO

STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,)
)
Plaintiff,)

CASE NO.

ORIGINAL

vs.

CR10-3389

David Loren Curry, dob [REDACTED]
SSN: [REDACTED])
)

AFFIDAVIT IN SUPPORT
OF PROBABLE CAUSE

RE: 801 E. Glacier Peak Dr.
Post Falls, ID. 83854

Defendant.)
STATE OF IDAHO)
 : ss.
County of Kootenai)

R. L. Gunderson being first duly sworn, deposes and says that:

I am a detective for the Post Falls Police Department for the City of Post Falls. The basis for the request for the issuance of a SEARCH WARRANT is set forth in the police report #10PF02947 attached hereto and incorporated herein. I further depose and say that I have read the report and all the contents are true and correct to the best of my knowledge, and that I am the author or that I personally know the author of the report to be a law enforcement officer whom I believe to be credible and reliable.

DATED THIS 22nd day of FEB, 20 10

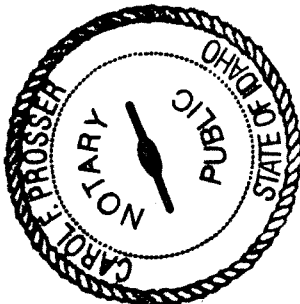
[Signature]
AFFIANT

Subscribed and SWORN to before me this 22nd day of Feb
2010.

[Signature]
NOTARY PUBLIC FOR IDAHO

Residing at: Post Falls

Commission expires: 9-27-2015



02/22/2010
16:19

POST FALLS POLICE DEPARTMENT
LAW Incident Table:

379
Page: 1

Incident Number: 10PF02947

Nature: WEAPON OFFENSE Case Number: 10PF02963

Addr= 911 E SHASTA AVE

Image: Area: PF2 POST FALLS PD

City: POST FALLS ST: ID Zip: 83854

Contact: RP AT RES

Complainant& 309351

Lst: GORDON

Fst: MARLISA

Mid: NICOLE

DOB: [REDACTED] SSN: [REDACTED] Adr= 911 E SHASTA AVE

Rac: W Sx: F Tel: (208)773-5688 Cty: POST FALLS ST: ID Zip: 83854

Offense Codes: WOFF

Reported: NC

Observed: WOFF

Circumstances:

Rspndg Officers: B.CHAPMAN

F.BOWNE

D.MARSHALL

&

Rspnsbl Officer: R.GUNDERSON

Agency: PFPD

CAD Call ID: CD1115506

Received By: B.PITT

Last RadLog: 18:49:12 02/20/2010 CMPLT

How Received: T Telephone

Clearance: D1 REPORT TAKEN

When Reported: 18:00:50 02/20/2010

Disposition: ACT Disp Date: 02/20/2010

Occurrd between: 17:59:39 02/20/2010

Judicial Sts:

and: 17:59:39 02/20/2010

Misc Entry: k1120

MO:

Narrative: (See below)

Supplement: (See below)

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
NM	32807	/ /	CURRY, DAVID LOREN	SUSPECT
NM	216352	/ /	FERRA, MELISSA DANIELLE	MENTIONED
NM	291975	/ /	BEAUCHAMP, LORA MAE	CONTACTED
NM	309351	/ /	GORDON, MARLISA NICOLE	*Complainant
NM	414605	/ /	ESCUERO, TRAVIS JOHN	VICTIM
CA	CD1115506	02/20/2010	18:00 02/20/2010 ASSAULT FIREA	*Initiating Call

LAW Incident Case Numbers:

Case Numbers

Seq Number

1 10PF02963

LAW Incident Offenses Detail:

Offense Codes

Seq Code

Amount

1 WOFF Weapons Offense

0.00

LAW Incident Responders Detail

Responding Officers

Seq Name

Unit

1 B.CHAPMAN

1147

2 F.BOWNE

1154

033

Responding Officers

Seq	Name	Unit
3	D.MARSHALL	1122
4	K.SCHMECKPEPER	1146

Main Radio Log Table:

Time/Date	Typ	Unit	Code	Zone	Agnc Description
18:49:12 02/20/2010	1	1147	CMPLT	PF2	PFPD incid#=10PF02947 Completed cal
18:47:07 02/20/2010	1	1154	CMPLT	PF2	PFPD (MDC) Completed call incid#=10
18:46:57 02/20/2010	1	1146	14	PF2	PFPD 691-9179
18:46:42 02/20/2010	1	1122	CMPLT	PF2	PFPD (MDC) Completed call incid#=10
18:46:23 02/20/2010	1	1146	14	PF2	PFPD 691-9179
18:43:11 02/20/2010	1	1122	14	PF2	PFPD THAT IS HIS BROTHER
18:43:08 02/20/2010	1	1154	14	PF2	PFPD COUGHING AND LIGHTS JUST WENT
18:43:00 02/20/2010	1	1122	4	PF2	PFPD
18:43:00 02/20/2010	1	1146	4	PF2	PFPD
18:36:34 02/20/2010	1	1122	DLINQ	PF2	PFPD last=CURRY first=JAMES mid=A*
18:35:51 02/20/2010	1	1122	ARRVD	PF2	PFPD incid#=10PF02947 W/ 1146 call=
18:35:45 02/20/2010	1	1154	ARRVD	PF2	PFPD incid#=10PF02947 W/ 1146 call=
18:34:15 02/20/2010	1	1122	DLINQ	PF2	PFPD last=CURRY first=JAMES mid=A*
18:32:58 02/20/2010	1	1146	14	PF2	PFPD MALE PULLED INTO THE GARAGE AN
18:32:58 02/20/2010	1	1146	14	PF2	PFPD + SN'T MATCH
18:32:43 02/20/2010	1	1146	14	PF2	PFPD VEH PULLED INTO DRIVE AT GLACI
18:30:29 02/20/2010	1	1147	CMPLT	PF2	PFPD incid#=10PF02947 Reassigned to
18:29:52 02/20/2010	1	1122	ARRVD	PF2	PFPD incid#=10PF02947 clear contact
18:29:52 02/20/2010	1	1154	ARRVD	PF2	PFPD incid#=10PF02947 clear contact
18:29:00 02/20/2010	1	1147	DLINQ	PF2	PFPD last=FERRA first=MELISSA mid=D
18:27:38 02/20/2010	1	1154	DLINQ	PF2	PFPD last=MORGAN first=AARON mid=J*
18:26:49 02/20/2010	1	1154	DLINQ	PF2	PFPD last=JORGENSEN first=AARON mid
18:26:22 02/20/2010	1	1122	ARRVD	PF2	PFPD incid#=10PF02947 w/ 54 call=84
18:25:51 02/20/2010	1	1154	ARRVD	PF2	PFPD incid#=10PF02947 singing hill
18:25:51 02/20/2010	1	1154	ARRVD	PF2	PFPD + all=841
18:19:43 02/20/2010	1	1122	14	PF2	PFPD 46 IS SITTING IN THE AREA DARK
18:19:28 02/20/2010	1	1154	14	PF2	PFPD POSS HAVE MADE IT HOME
18:19:22 02/20/2010	1	1154	14	PF2	PFPD STRAIGHT SHOT FROM MACKENZIE T
18:14:10 02/20/2010	1	1154	14	PF2	PFPD UNK WHICH STREET
18:14:04 02/20/2010	1	1154	14	PF2	PFPD CONTACTED 2 FEMS BELIEVE THEY
18:12:44 02/20/2010	1	1154	ARRVD	PF2	PFPD incid#=10PF02947 FLAG DOWN SIN
18:12:37 02/20/2010	1	1147	14	PF2	PFPD MALE DOESN'T HAVE A VEH ACCORD
18:11:54 02/20/2010	1	1147	14	PF2	PFPD MALE DEFINITELY WALKED AWAY AN
18:09:42 02/20/2010	1	1122	ARRVD	PF2	PFPD (MDC) Arrived on scene incid#=
18:07:44 02/20/2010	1	1122	14	PF2	PFPD WILL GO BACK OVER TOWARDS THE
18:06:34 02/20/2010	1	1154	ARRVD	PF2	PFPD incid#=10PF02947 AREA OF 801 G
18:06:24 02/20/2010	1	1154	ARRVD	PF2	PFPD incid#=10PF02947 IN THE AREA c
18:05:39 02/20/2010	1	1146	ARRVD	PF2	PFPD (MDC) IN THE AREA incid#=10PF0
18:04:48 02/20/2010	1	1154	ARRVD	PF2	PFPD incid#=10PF02947 IN THE AREA c
18:04:45 02/20/2010	1	1147	ARRVD	PF2	PFPD incid#=10PF02947 911 SHASTA ca
18:04:13 02/20/2010	1	1122	14	PF2	PFPD ON TETON NOW
18:03:25 02/20/2010	1	1147	14	PF2	PFPD D5 SO FAR GOING TO GO DOWN M
18:03:17 02/20/2010	1	1147	14	PF2	PFPD IN THE AREA OF SHASTA ADDRESS
18:02:42 02/20/2010	1	1146	ENRT	PF2	PFPD (MDC) Assisting unit 1147 inci
18:02:33 02/20/2010	1	1122	ENRT	PF2	PFPD incid#=10PF02947 Enroute to a
18:02:25 02/20/2010	1	1147	ARRVD	PF2	PFPD incid#=10PF02947 IN THE AREA
18:00:58 02/20/2010	1	1147	ENRT	PF2	PFPD incid#=10PF02947 Enroute to a

Time/Date	Typ	Unit	Code	Zone	Agnc Description
18:00:58 02/20/2010	1	1154	ENRT	PF2	PFPD incid#=10PF02947 Enroute to a

Narrative:

INCIDENT REPORT

1. TYPE OF INCIDENT REPORT AND APPLICABLE CODE SECTION:

EXHIBITION OF A DEADLY WEAPON (I.C 18-3303)

2. LOCATION OF INCIDENT:

911 SHASTA AVE (SINGLE FAMILY RESIDENCE), POST FALLS, KOOTENAI COUNTY, STATE OF IDAHO

3. TIME FRAME OF INCIDENT:

APPROXIMATELY 1759 HRS., 02/20/10

4. REPORTING OFFICER:

BRETT CHAPMAN

5. ASSISTING OFFICERS:

SGT DAVID MARSHALL

OFC FRANK BOWNE

OFC KEVIN SCHMECKPEPER

6. PERSONS INVOLVED:

DAVID CURRY (SUSPECT)

TRAVIS ESCUDERO (VICTIM)

MARLISA GORDON (WITNESS)

MELISSA FERRA (MENTIONED)

LORA BEAUCHAMP (CONTACTED)

7. PROPERTY OR EVIDENCE INVOLVED AND DISPOSITION:

N/A

8. REPORT NARRATIVE:

ON 02/20/10 AT APPROXIMATELY 1759 HRS., I (OFFICER CHAPMAN) RECEIVED A RADIO CALL FROM POST FALLS COMMUNICATIONS IN REFERENCE TO AN UNWANTED SUBJECT AT 911 SHASTA AVE. COMMENTS OF THE CALL STATED THAT THE UNWANTED MALE SUBJECT (DAVID CURRY) HAD BRANDISHED A HANDGUN TOWARD ONE OF THE OCCUPANTS OF THE HOME. THE SUSPECT LEFT ON FOOT DRESSED IN A HOODED CARHARDT JACKET AND POSSIBLY HEADING TOWARD HIS RESIDENCE AT 801 GLACIER PEAK DR IN POST FALLS.

I CONTACTED R/P MARLISA GORDON AND HER FIANCEE TRAVIS JOHN ESCUDERO. TRAVIS SAID THAT HE RECEIVED A TELEPHONE CALL ON HIS CELL PHONE FROM A BLOCKED NUMBER. TRAVIS SAID THAT THE MALE VOICE STATED "'HEY BUDDY, I'M COMING FOR YOU.'" APPROXIMATELY FIFTEEN MINUTES HAD ELAPSED WHEN TRAVIS WAS ALERTED BY MARLISA THAT DAVID CURRY WAS WALKING UP THEIR DRIVEWAY. BOTH TRAVIS AND MARLISSA WERE IN THE GARAGE OF THEIR RESIDENCE WHEN DAVID WALKED IN UNINVITED. DAVID THREW A BAG OF CLOTHES AT MARLISSA'S FEET AND TRIED TO START A PHYSICAL CONFRONTATION WITH TRAVIS. DAVID KICKED A TABLE TOWARD TRAVIS AND LUNGED AT HIM IN AN AGGRESSIVE MANNER. TRAVIS RESPONDED BY GRABBING A POLE TO PROTECT HIMSELF AND MARLISA. TRAVIS SAID THAT HE OBSERVED DAVID PULL THE BUTT END OF A HANDGUN FROM HIS RIGHT FRONT JACKET POCKET AND STATED "'DO YA WANNA GO?'" AT THIS TIME, TRAVIS YELLED TO MARLISA TO GET IN THE HOUSE. TRAVIS SAID THAT DAVID WAS MUTTERING SOMETHING IN SPANISH TO HIM WHICH HE COULDN'T UNDERSTAND. DAVID THEN EXITED THE GARAGE WITHOUT FURTHER INCIDENT AND PROCEEDED TO DISPLAY HIS MIDDLE FINGER TOWARD TRAVIS AS HE WALKED SOUTHBOUND ON MACKENZIE DR.

MARLISA SAID THAT SHE DIDN'T SEE THE BUTT OF THE GUN LIKE TRAVIS DESCRIBED BUT WITNESSED HIS THREATENING MANNER TOWARD THEM AS HE ENTERED THEIR GARAGE. BOTH MARLISA AND TRAVIS SAID THAT THEY WERE WORRIED THAT DAVID MAY HAVE USED THE GUN ON THEM.

MARLISA SAID THAT DAVID WAS UPSET OVER THE RECENT BREAK-UP WITH HIS GIRLFRIEND, MELISSA FERRA. MARLISA SAID THAT DAVID THREW THE BAG OF MELISSA'S CLOTHES AT HER FEET. MARLISA ADDED THAT DAVID KNEW THAT MELISSA IS MARLISA'S COUSIN AND THAT SHE SPENDS A LOT OF TIME AT THE RESIDENCE.

I HAD AN OPPORTUNITY TO SPEAK WITH MELISSA FERRA ABOUT THE ABOVE MATTER. MELISSA SAID THAT DAVID BELIEVES THAT SHE (MELISSA) "RATTED" HIM OUT TO THE POST FALLS POLICE IN REFERENCE TO A RECENT HIT AND RUN INCIDENT (REF #10PF02397). MELISSA SAID THAT DAVID DROVE HER VEHICLE THAT NIGHT AND HASN'T SPOKEN TO HER SINCE SHE SPOKE TO THE POST FALLS POLICE.

FERRA ALSO MENTIONED THAT SHE HAS SEEN DAVID WITH A BLACK COLORED SMALL CALIBER REVOLVER IN HIS POSSESSION ON PRIOR OCCASIONS. FERRA SAID THAT SHE IS VERY CONCERNED THAT DAVID MAY USE THE GUN ON HER IF HE FINDS OUT WHERE SHE IS. FERRA DID MENTION THAT SHE WOULD BE SEEKING A PROTECTION ORDER AGAINST DAVID ON Monday.

9. ADDITIONAL INFORMATION:

SGT MARSHALL AND OFFICER BOWNE WERE UNABLE TO LOCATE DAVID IN THE AREA; HOWEVER, OFFICER SCHMECKPEPER CONTACTED DAVID'S MOTHER, LORA BEAUCHAMP, AT 801 GLACIER PEAK DRIVE. OFC SCHMECKPEPER SAID THAT DAVID HAD WALKED HOME AND ASKED HIS MOTHER TO GIVE HIM A RIDE TO A FRIEND'S HOUSE SOMEWHERE ON 2ND AVE IN POST FALLS. BEAUCHAMP WAS NOT CERTAIN WHO DAVID WAS CONTACTING BUT THAT HE REQUESTED TO BE DROPPED OFF AT 2ND AVE NEAR GREENSFERRY AVE. AT THE TIME OF THIS REPORT, DAVID HAD NOT BEEN CONTACTED.

BOTH TRAVIS AND MARLISA COMPLETED WRITTEN VOLUNTARY STATEMENTS ON THE INCIDENT AND WERE ADAMANT ABOUT PURSUING CHARGES AGAINST DAVID FOR EXHIBITION OF A DEADLY WEAPON. THEY ALSO WANTED DAVID TRESPASSED FROM 911 SHASTA AVE. I TOLD THEM THAT I WOULD PLACE THEIR RESIDENCE ON THE DRIVE-BY LIST.

10. DATE, TIME, REPORTING OFFICER

Sat Feb 20 23:55:34 PST 2010 OFC CHAPMAN K1147

037

11. APPROVED BY:

SGT. M. BRANTL K1120 Sun Feb 21 00:36:55 PST 2010

#####

I have read this report and will contact the victim for further.

Mon Feb 22 08:54:36 PST 2010 M. Goodwin, K1140

SUPPLEMENTAL BY DET. RL GUNDERSON:

02/22/10, I WILL BE TAKING OVER THE INVESTIGATION OF THIS CASE FROM DET. GOODWIN AT THIS TIME. I HAVE ALREADY BEEN ASSIGNED A CASE (#10PF02761) INVOLVING SUSPECT DAVID CURRY, WHOM IS BELIEVED TO HAVE CAUSED MALICIOUS INJURY TO PROPERTY AT 911 E. SHASTA AVENUE, POST FALLS. THE FRONT METAL DOOR SUSTAINED DAMAGE WHEN A MARKER PEN WAS USED TO WRITE THE WORD "SNITCH" ON IT. THE VICTIMS VEHICLE ALSO HAD AN OIL SUBSTANCE POURED OVER IT. THE RP, MARLISA GORDON BELIEVED THAT DAVID CURRY WAS RETALIATING AGAINST THEM BECAUSE HER COUSIN, MELISSA FERRA WAS DATING DAVID CURRY, BUT SEPERATED FROM HIM BECAUSE HE WRECKED HER VEHICLE IN A HIT & RUN ACCIDENT (CASE #10PF02397) AND FLED THE SCENE. SHE WAS RELUCTANT TO REPORT DAVID CURRY AS THE DRIVER, BUT EVENTUALLY ADMITTED THAT IT WAS DAVID DRIVING HER CAR. THE DAMAGE TO THE DOOR AND VEHICLE WAS FOUND ON THE FOLLOWING MORNING AFTER MELISSA REPORTED DAVID CURRY AS THE DRIVER WHO LEFT THE SCENE OF THE ACCIDENT.

WHILE TALKING TO MELISSA FERRA & MARLISSA GORDON ON FRIDAY (02/19) ABOUT THE DAMAGED PROPERTY CASE; THEY EXPRESSED A GREAT CONCERN AND FEAR OF DAVID. MELISSA WAS CONSIDERING A RESTRAINING ORDER TO KEEP HIM AWAY. I ASKED ABOUT WEAPONS HE MAY HAVE. MELISSA TOLD ME THAT SHE WAS AT HIS HOUSE ABOUT 30-DAYS AGO WHEN DAVID WENT TO THE GARAGE AND RETURNED TO THE BASEMENT TO PRODUCE A DARK COLORED REVOLVER. SHE SAID HE TOLD HER THE GUN HAD BELONGED TO HIS GRANDFATHER. SHE DID NOT KNOW WHAT CALIBER OF PISTOL, OR OTHER INFORMATION ABOUT IT. THAT WAS THE FIRST TIME SHE KNEW HE HAD A GUN. THERE WAS ANOTHER "FRIEND" OF DAVID'S PRESENT AT THE TIME, BUT SHE DIDN'T WANT TO NAME HIM AT THIS TIME. DAVID & JAMES BOTH LIVE IN THE RESIDENCE WITH THEIR MOTHER AND GRANDMOTHER, ACCORDING TO MELISSA.

DAVID CURRY IS A KNOWN CONVICTED FELON WHOM IS NOT AUTHORIZED TO POSSESS OR OWN FIREARMS. HIS BROTHER JAMES CURRY IS ALSO ON FELONY PROBATION AND WAS RECENTLY RELEASED FROM PRISON. HE LIVES IN THE RESIDENCE AS WELL AND ALSO CANNOT POSSESS OR OWN FIREARMS. WHEN I LEARNED THAT A GUN WAS LOCATED IN THE RESIDENCE, I IMMEDIATELY CALLED THE FELONY PROBATION & PAROLE OFFICE. I REQUESTED THAT P.O. JERRY LEMA RETURN MY PHONE CALL, WHICH HE DID.

I EXPLAINED TO JERRY LEMA THAT A GUN IS SUSPECTED TO BE HIDDEN IN THE GARAGE OF THE HOME WHERE JAMES CURRY IS CURRENTLY ON FELONY PROBATION. JERRY INDICATED HE WANTED TO DO A HOME VISIT AND WOULD BE SCHEDULING ONE ASAP. JERRY WAS CURRENTLY OFF DUTY, SO WE AGREED TO DISCUSS THIS FURTHER ON MONDAY (02/22) TO DISCUSS THIS FURTHER.

POST FALLS SPILLMAN RECORDS SHOW AN EXTENSIVE CRIMINAL RECORD FOR DAVID CURRY. SOME OF THE RELATED REPORTS FILED FOR THE FOLLOWING COMPLAINTS ARE:

038

#92-3847 AGGRAVATED ASSAULT
#93-567 EXHIB/USE OF DANGEROUS WEAPON
#95-6848 DISCHARGE OF FIREARM AT INHABITED RESIDENCE
#96-435 DISCHARGE OF FIREARM AT INHABITED RESIDENCE
#97-2630 PV/DISCHARGE OF FIREARM AT DWELLING
#97-4482 PV/DISCHARGE OF FIREARM AT DEWELLING

02/22/10, 15:53, I CALLED FOR MARLISSA, BUT INSTEAD SPOKE TO HER MOTHER, ROXANNE RICHEN. SHE STATED THAT SHE TOOK THE KIDS TO HER HOME THE NIGHT THIS OCCURRED. IT WAS HER BELIEF THAT DAVID HAD BEEN SERVED WITH A TRESPASS WARNING NOTICE. AFTER I DISCONNECTED, MARISSA CALLED ME. I SPOKE TO HER ABOUT THE CASE AND HER BOYFRIEND TRAVIS ESCUDERO. HE WAS CERTAIN IT WAS A GUN IN THE PANTS POCKET OF DAVID'S PANTS. HE SHOWED HIM THE BUTT OF THE GUN AND ASKED HIM WHAT DO YOU WANNA DO? HE DESCRIBED A CONFIDENCE AND DEMEANOR OF SOMEONE WHO HAD THE UPPER HAND WHEN TRAVIS ADMITTEDLY ARMED HIMSELF WITH A POLE WHEN DAVID CAME INTO THEIR HOUSE CAUSING PROBLEMS. TRAVIS STATED HE WAS IN THE MILITARY AND HAS EXPERIENCE WITH GUNS, BUT COULDN'T RECOGNIZE IF THIS WAS A REVOLVER OR SEMI - AUTO PISTOL. FURTHER PENDING. RLG

A handwritten signature in black ink, appearing to be 'R. L. G.' with a stylized flourish at the end.

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
1 B.PITT	18:49:11 02/20/2010	
CAD Call info/comments		
=====		

DAVID CURRY CALLED RP AND THREATENED HER AND THEN WALKED OVER TO HER HOUSE AND JUST LEFT
MALE BRANDISHED A HANDGUN TO THE RPS FIANCEE
18:01:30 02/20/2010 - B.PITT
MALE LSW WEARING CARHART JKT W/ A HOOD THAT WAS ON HIS HEAD WHI SHOES AND BLUE JEANS
LEFT ON FOOT WALKING TOWARD HIS RESIDENCE PER THE RP THE MALE IS WALKING TO HIS OWN HOUSE WHICH IS IN A NEIGHBORHOOD NEXT DOOR
18:02:40 02/20/2010 - N.SCHMULAND

State Response:

Message Received From DMV

KR.ID0280250.DMV .*MRI3567354.TXT

NAM/CURRY,DAVID LOREN.DOB/[REDACTED]B.SEX/M

MAY BE THE SAME AS: PAGE 01 FOR OFFICIAL INVESTIGATION PURPOSES ONLY
OLN/[REDACTED] PRIVACY FLAG.
NAM/CURRY, DAVID LOREN. ** OPR STATUS/EXPIRED.
RES/ ** CDL STATUS/NOT LICENSED.
801 GLACIER PEAK DR CLASS/D. ** EXP/11-03-2007.
POST FALLS ID 83854. OLT/DRIVER LICENSE.

SEX/M. HAI/BRO. EYE/GRN. [REDACTED]5. SOC/[REDACTED]
HGT/510. WGT/164. ISS/02-08-2010. REC/280100390102. CNTY/KOOT.

AKA OLN/[REDACTED]	AKA OLS/ID
920023211.	ID.
SUSP/07-22-1997.UNTL/01-18-1998. DUI.	FULL.SR22.03-24-1999.OP
CITN/07-19-1999C. 07-04-1999A.BASIC RULE.	CTY.POST FALLS.
ORD DEGREE/INFR.	
SUSP/01-28-2000.UNTL/01-18-2001. FAIL MNT INS.	FULL.SR22.03-29-2000.OP
CITN/07-05-2001C. 06-23-2001A.BASIC RULE.	CTY.LEWISTON.
ORD DEGREE/INFR.	
CITN/11-08-2004C. 10-16-2004A.BASIC RULE.	ISP.KOOTENAI.
ORD DEGREE/INFR.	
CITN/11-12-2004C. 10-16-2004A.BASIC RULE.	ISP.KOOTENAI.
ORD DEGREE/INFR.	
CITN/11-22-2004C. 09-05-2004A.FOLLOW CLOSE.	WA. WASHINGTON.
CITN/11-22-2004C. 09-05-2004A.BASIC RULE.	WA. WASHINGTON.
CITN/12-01-2004C. 10-31-2004A.BASIC RULE.	ISP.NEZ PERCE.
ORD DEGREE/INFR.	
SUSP/12-20-2004.UNTL/03-20-2005. INFRACTIONS.	REIN FULL.12-04-2007.OP
SUSP/12-27-2004.UNTL/03-27-2005. INFRACTIONS.	REIN FULL.12-04-2007.OP
SUSP/12-28-2004.UNTL/11-17-2007. NRVC.	REIN FULL.12-04-2007.OP
SUSP/01-10-2005.UNTL/04-10-2005. INFRACTIONS.	REIN FULL.12-04-2007.OP

CITN/11-21-2005C. 01-05-2005A.DWP SUSPEND. CTY.COEUR D'ALE.
ORD DEGREE/MISD.
SUSP/11-21-2005.UNTL/05-20-2006. DWP SUSPEND. FULL.SR22.05-20-2009.OP
ADDITIONAL LICENSE TYPES CONTINUED ON NEXT PAGE...

MAY BE THE SAME AS: PAGE 02 FOR OFFICIAL INVESTIGATION PURPOSES ONLY
***** IDAHO IDENTIFICATION CARD ONLY - NOT A DRIVERS LICENSE *****
OLN/ [REDACTED] PRIVACY FLAG.
NAM/CURRY, DAVID LOREN. ID CARD STATUS/EXPIRED.
RES/
801 GLACIER PEAK DR ** EXP/11-03-2009.
POST FALLS ID 83854. OLT/IDENTIFICATION CARD.
TRANSACTION/DUPLICATE.

SEX/M. HAI/BRO. EYE/HAZ. [REDACTED] SOC/ [REDACTED] ORGAN DONOR
HGT/510. WGT/168. ISS/02-29-2008. REC/280080600140. CNTY/KOOT.

AKA OLN/ [REDACTED] AKA OLS/ID
920023211. ID.
END OF RECORD
END OF MESSAGE...

MRI 3567356 IN: DMVIO1 11706 AT 19:01 20FEB10
OUT: PPFCAD 463 AT 19:01 20FEB10

18:03:46 02/20/2010 - N.SCHMULAND
MALE RELEASED FROM FELONY PROBATION

18:28:56 02/20/2010 - N.SCHMULAND

State Response:

Message Received From NLETS

OREGON DEPARTMENT OF MOTOR VEHICLES

NAM/MORGAN,ARRON JAMES DOB/[REDACTED]
5251B SW MCVEY AVE SEX/MALE HGT/511 WGT/150
REDMOND, OR 97756 HAI/ EYE/ RAC/UNKNOWN
OLN/[REDACTED] OLS/OR

STATUS: SUSPENDED 1ST DUII 08/10/09 08/10/10 DWS MISDEMEANOR
ISSUED: 2005-04-26 CLASS: LICENSE EXPIRES: 2013-01-15

THIS INFORMATION IS PROVIDED FOR LAW ENFORCEMENT PURPOSES ONLY
MRI 3568697 IN: NLI1 11741 AT 19:27 20FEB10
OUT: PPFCAD 472 AT 19:27 20FEB10

18:40:38 02/20/2010 - B.PITT

State Response:

Message Received From DMV

KR.ID0280250.DMV.*MRI3569212.TXT

NAM/CURRY, JAMES A.DOB/[REDACTED]

MAY BE THE SAME AS: PAGE 01 FOR OFFICIAL INVESTIGATION PURPOSES ONLY
OLN/[REDACTED] PRIVACY FLAG.

NAM/CURRY, JAMES ALLEN.

** OPR STATUS/SUSPENDED.

RES/

** CDL STATUS/NOT LICENSED.

801 GLACIER PEAK DR

CLASS/D. ** EXP/01-05-2012.

POST FALLS ID 83854.

OLT/DRIVER LICENSE.

** REST/INTRLK ATTACH.

SEX/M. HAI/BRO. EYE/BLU.

SOC/[REDACTED]

ORGAN DONOR

HGT/601. WGT/230. ISS/08-22-2008. REC/280082350168. CNTY/KOOT.

SUSP/12-21-1999.UNTL/03-20-2000. INFRACTIONS. REIN FULL.07-19-2000.OP
CITN/01-04-2001C. 12-21-2000A.DUI. ISP.KOOTENAI.

ORD DEGREE/MISD.

SUSP/04-04-2001.UNTL/07-03-2001. ALS08+ORDRUG. REIN FULL.07-03-2004.OP

CITN/07-18-2002C. 06-24-2002A.DUI.

CTY.POST FALLS.

ORD DEGREE/MISD.

SUSP/07-24-2002.UNTL/11-21-2002. DUI.

FULL.SR22.08-11-2004.OP

SUSP/07-25-2002.UNTL/07-25-2003. ALS08+ORDRUG. REIN FULL.08-11-2004.OP

SUSP/12-02-2004.UNTL/11-21-2005. FAIL MNT INS. FULL.SR22.03-30-2005.OP

SUSP/07-03-2006.UNTL/07-03-2007. REFUSE TEST. REIN FULL.08-20-2008.OP

SUSP/06-25-2007.UNTL/06-25-2008. DUI FELONY. FULL.SR22.08-20-2008.OP

CITN/10-31-2007C. 06-23-2007A.DUI FELONY.

CTY.POST FALLS.

ORD DEGREE/FLNY.

SUSP/12-22-2008.UNTL/03-22-2009. ALS08+ORDRUG.

OP

SUSP/01-02-2009.UNTL/06-25-2011. FAIL MNT INS.

OP

CITN/01-26-2009C. 11-21-2008A.DUI FELONY.

CTY.COEUR D'ALE.

ORD DEGREE/FLNY.

SUSP/07-14-2009.UNTL/07-14-2010. DUI FELONY.

OP

ADDITIONAL LICENSE TYPES CONTINUED ON NEXT PAGE...

MAY BE THE SAME AS: PAGE 02 FOR OFFICIAL INVESTIGATION PURPOSES ONLY

***** IDAHO IDENTIFICATION CARD ONLY - NOT A DRIVERS LICENSE *****

OLN/[REDACTED] PRIVACY FLAG.

NAM/CURRY, JAMES ALLEN.

ID CARD STATUS/VALID.

RES/

801 GLACIER PEAK DR

** EXP/01-05-2012.

POST FALLS ID 83854.

OLT/IDENTIFICATION CARD.

SEX/M. HAI/BRO. EYE/BLU. DOB/[REDACTED].

SOC/[REDACTED].

ORGAN DONOR

HGT/600. WGT/220. ISS/01-17-2008. REC/280080170173. CNTY/KOOT.

END OF RECORD

END OF MESSAGE...

MRI 3569214 IN: DMVIO1 12128 AT 19:35 20FEB10

OUT: PPFCAD 483 AT 19:35 20FEB10

042

STATE OF IDAHO }
COUNTY OF KOOTENAI } ss
FILED:

RETURN ON WARRANT

2010 FEB 25 AM 11:11

STATE OF IDAHO)
) ss.
County of Kootenai)

CLERK DISTRICT COURT

DEPUTY

Cindy O'Billy

22nd I, the undersigned law enforcement officer, received the above search warrant on the
day of FEB, 2010, and executed the same on the 23rd day of
FEB, 2010, at 0825 o'clock .m.

CR10-3389

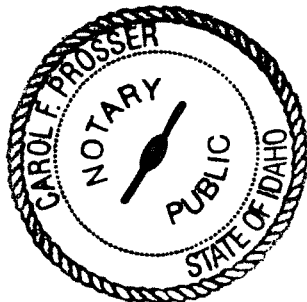
1. The above described evidence was NOT found on/in the above described premises.
2. I discovered and seized the above described property as described in the attached written inventory.
3. I left a copy of the above search warrant at the place where the evidence was found.

DATED this 25th day of FEB, 2010.

[Signature]

Law Enforcement Officer

SUBSCRIBED AND SWORN to before me this 25th day of
February, 2010.



Carol F Prosser

Notary Public for Idaho
Commission expires: 9-27-2015

ORIGINAL

In the Matter Of:)
)
A RESIDENCE LOCATED AT)
801 E. Glacier Peak Dr. Post Falls, Idaho)
)
)
)
)

CR 10-3389

County of Kootenai, STATE OF IDAHO, to:

Firearm(s), ammunition, ownership documents, receipts for firearms/ammunition, manuals for firearms, photographs, notes or letters related to the possession and/or threatening use of firearms; which are presently located at the premises described as follows:

WHEREFORE, you are commanded to:

ORIGINAL

1. Forthwith search the above described premises within 24 day(s) (hour(s)) for the above described property, which search shall be conducted in the daytime.

2. If the above described property, or any part thereof, is found, then seize said property and leave a copy of this warrant, and a receipt that describes in detail the property seized, with the person from whom it was taken, or in the place where said property was found.

3. If the above described property, or any part thereof, is found, then prepare a written inventory, describing the property in detail, in the presence of the person from whom it was taken, or in that person's absence, in the presence of some credible person.

4. Return this search warrant and the written inventory to any magistrate, at the Kootenai County Courthouse at Government Way and Garden Avenue, in the City of Coeur d'Alene, Idaho.

DATED this 22nd day of February, 2010, at 4:58 o'clock p.m.


MAGISTRATE

JOEL RYAN
Post Falls City Prosecutor
408 Spokane Street
Post Falls, ID 83854
Telephone: (208) 773-0215

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED:

2010 FEB 25 AM 11:11

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

CLERK DISTRICT COURT
Cindy O'Reilly
CLERK

STATE OF IDAHO,

Plaintiff,

vs.

RE:

801 E. GLACIER PEAK
DR. POST FALLS, ID
83854

Defendant

CASE NO. CR 10-3389

INVENTORY OF
SEIZED PROPERTY

STATE OF IDAHO

County of Kootenai

) ss.

SEE ATTACHED LIST OF PROP.

DATED this 25TH day of FEB, 2010.

Peace Officer

I, RL. GUNDELSON, the Peace Officer by whom the attached search warrant was executed do swear that the above inventory contains a true and detailed account of all the property taken by me on that warrant

SUBSCRIBED AND SWORN to before me this 25th day of Feb, 2010

[Signature]
MAGISTRATE

046

PAGE NO.: / OF /

INCIDENT NO.: LOCATION: BOI E. GLACIER PEAK A
#10PF02761

* NOTE - KNIFE TO BE RETURNING TO HOMEOWNER. RLG

BARRY MCHUGH
Prosecuting Attorney
501 Government Way/ Box 9000
Coeur d' Alene, ID 83816-1871
Telephone: (208) 446-1800

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

ORIGINAL
2010 FEB 23 AM 11:1

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
Cindy O'Neil
DEPUTY

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
RE: 801 E. Glacier Peak Dr.)
Post Falls, ID. 83854)
)
Defendant)
)
_____)

CASE NO. CR 10- 3389

ORDER PRESERVING
SEIZED PROPERTY

RL Gunderson, having returned to the court a search warrant issued on the 22nd day of February, 2010 and having brought to the court the property seized pursuant to that warrant and a written inventory of that property.

WHEREFORE, IT IS HEREBY ORDERED that RL Gunderson shall deliver or cause to be delivered the property described in the inventory referred to above to: POST FALLS POLICE DEPARTMENT for the purpose of preserving said property for use as evidence or until further order of this Court.

IT IS FURTHER ORDERED that said property, or any part thereof, may be delivered to any person or laboratory or laboratories for the purpose of conducting or obtaining any tests, analysis, or identification of said property which is deemed necessary by said Peace Officer or Prosecuting Attorney of the City of Post Falls, without further order of this court.

DATED this 25th day of FEB 2010.

[Signature]
MAGISTRATE

ORIGINAL

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2010 MAR -1 AM 2:38

CLERK DISTRICT COURT

DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,	)	CASE NUMBER	CR-10-0003389
	)		F/M
Plaintiff,)		
	)	NOTICE OF APPEARANCE	
V.	)	REQUEST FOR TIMELY	
	)	PRELIMINARY HEARING,	
DAVID LOREN CURRY,	)	MOTION FOR BOND REDUCTION	
	)	& NOTICE OF HEARING	
)		
Defendant.)		

COMES NOW, the Office of the Kootenai County Public Defender, and pursuant to court appointment hereby appears for and on behalf of the above named defendant in the above entitled matter, and requests that a preliminary hearing be scheduled in accordance with the time limits set forth in Idaho Criminal Rule 5.1.

Counsel hereby moves for reduction of the bond set in this matter on the grounds that it is excessive, and further, **notice is hereby given** that counsel will present argument in support of the motion to reduce bond at the time of the preliminary hearing scheduled in this matter if the defendant is in custody.

Notice is further given that the Defendant herewith asserts all rights accorded him or her under the Fifth, Sixth, and Fourteenth Amendments to the Constitution of the United States and under Article I, § 13 of the Constitution of the State of Idaho and all prophylactic measures imposed
**NOTICE OF APPEARANCE, REQUEST FOR TIMELY PRELIMINARY HEARING,
MOTION FOR BOND REDUCTION & NOTICE OF HEARING**

Page 1

049

upon the State pursuant to said constitutional provisions; including, but not necessarily limited to, the right to remain silent and the right to counsel. NO AGENT OF THE STATE OR PERSON ACTING IN SUCH CAPACITY IS TO QUESTION THE DEFENDANT IN REGARD TO ANY ACT, WHETHER CHARGED OR UNCHARGED.

Notice is further given that the Defendant herewith demands and asserts all State and Federal statutory and constitutional rights to speedy trial of this matter.

DATED this 26 day of February, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:

J. BRADFORD CHAPMAN
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 1 day of ~~February~~ March, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833

 Via Fax

✓ Interoffice Mail

Jamie H. Woods

ORIGINAL

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2010 MAR -1 AM 2:38

CLERK DISTRICT COURT
[Signature]
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAVID LOREN CURRY,

Defendant.

CASE NUMBER CR-10-0003389
F/M

DEFENDANT'S PLEA
OF NOT GUILTY AND
DEMAND FOR JURY TRIAL

COMES NOW, the defendant, by and through his attorney, J. Bradford Chapman, Deputy Public Defender, and enters a plea of NOT GUILTY to all misdemeanor charges in this case and demands a speedy jury trial on those misdemeanor charges.

Notice is further given that the Defendant herewith asserts all rights accorded him or her under the Fifth, Sixth, and Fourteenth Amendments to the Constitution of the United States and under Article I, § 13 of the Constitution of the State of Idaho and all prophylactic measures imposed upon the State pursuant to said constitutional provisions; including, but not necessarily limited to, the right to remain silent and the right to counsel. NO AGENT OF THE STATE OR PERSON ACTING IN SUCH CAPACITY IS TO QUESTION THE DEFENDANT IN REGARD TO ANY DECISION TO ACT, WHETHER CHARGED OR UNCHARGED.

**DEFENDANT'S PLEA OF NOT GUILTY AND
DEMAND FOR JURY TRIAL**

Page 1

051

DATED this 26 day of February, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:


J. BRADFORD CHAPMAN
DEPUTY PUBLIC DEFENDER

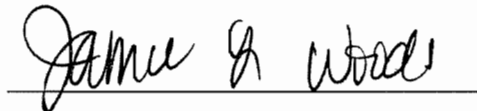
CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 1 day of ~~February~~ March, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833

☐ Via Fax

☒ Interoffice Mail


James G. Woods

Court Minutes:

Session: CALDWELL030510J
Session Date: 03/05/2010
Judge: Caldwell, Robert
Reporter:

Division: Div1
Session Time: 08:45

Courtroom: local

Clerk(s): Reynolds, Peggy

State Attorney(s): Verharen, Art

Public Defender(s): Nelson, Lynn

Prob. Officer(s):

Court interpreter(s):

Peggy Reynolds

Case ID: 0012

Case number: CR2010-3389
Plaintiff:
Plaintiff Attorney:
Defendant: CURRY, DAVID L
Pers. Attorney:
Co-Defendant(s):
State Attorney: Verharen, Art
Public Defender: Nelson, Lynn

03/05/2010

09:42:29

Case called

09:42:29

Recording Started:

09:42:32

Judge: Caldwell, Robert
PRELIMINARY HEARING - DF PRESENT IN CUSTODY

09:42:40

Public Defender: Nelson, Lynn

WAIVE READING OF COMPLAINT - DF WILL WAIVE
PRELIM

09:42:55 **State Attorney: Verharen, Art**

09:43:00 **Judge: Caldwell, Robert**
RIGHT TO PRELIM

09:43:57 **Defendant: CURRY, DAVID L**
UNDERSTAND - WAIVE PRELIM

09:44:04 **Judge: Caldwell, Robert**
ACCEPT WAIVER - BIND OVER DC - J. MITCHELL

09:44:26 **Stop recording**

STATE OF IDAHO

VS.

DAVID LOREN CURRY

DOB: [REDACTED]

FILED 3/5/10 AT 9:48 A.M.
CLERK OF THE DISTRICT COURT

BY Roger R. Roloff, DEPUTY

FELONY CASE # CR-2010-0003389

ORDER

☒ HOLDING
☐ DISMISSING CHARGE(S)

CHARGE(S): COUNT 1 - BURGLARY - I18-1401
COUNT 2 - ASSAULT-AGGRAVATED - I18-905
COUNT 3 - WEAPON-UNLAWFUL POSSESSION BY CONVICTED FELON - I18-3316
COUNT 4 - UNLAWFUL ENTRY - I18-7034
COUNT 5 - DISTURBING THE PEACE - I18-6409
Amended to COUNT 6 - PROPERTY-MALICIOUS INJURY TO PROPERTY - I18-7001M

☐ Dismissed - insufficient evidence to hold defendant to answer charge(s). ☐ Bond exonerated. ☐ NCO Lifted.

(Specify dismissed charge(s) on above line, if other charges still pending)

- ☒ Preliminary hearing having been waived by the defendant on the above listed charge(s),
☐ Preliminary hearing having been held in the above entitled matter, and it appearing to me that the offense(s) set forth above has / have been committed, and there is sufficient cause to believe the named defendant is guilty thereof,

IT IS HEREBY ORDERED that the defendant is held to answer the above charge(s) and is bound over to District Court. The Prosecuting Attorney shall file an Information that includes all charges under this case number.

IT IS FURTHER ORDERED that the defendant be admitted to bail in the amount of \$_____ and is committed to the custody of the Kootenai County Sheriff pending the giving of such bail.

- ☐ Defendant was advised of the charges and potential penalties and of defendant's rights, and having waived his/her constitutional rights to: a) trial by jury; b) remain silent; and c) confront witnesses, thereafter pled guilty to the charge(s) contained in the Information filed by the Prosecuting Attorney.

IT IS FURTHER ORDERED that not later than **14 days** after the date of this order, Defendant shall enter and file a written plea which states: the Defendant's true name, age, education and literacy levels; Defendant's rights to trial and counsel and any waiver of such rights; the offense or offenses of which Defendant is charged together with the minimum and maximum sentence for each charge; and Defendant's plea to each charge, the estimated time necessary for trial, if any; Defendant's current custody status; and Defendant's current physical residence address, mailing address and telephone number. A copy of the Defendant's written plea shall be delivered to the assigned judge's resident chambers. **Failure to timely file a written plea shall be a basis to revoke bond or release, and issue a bench warrant.**

IT IS FURTHER ORDERED that all pretrial motions in this case shall be filed not later than **42 days** after the date of this order unless ordered otherwise. All such pretrial motions in this matter shall be accompanied by a brief in support of the motion, and a notice of hearing for a date scheduled through the Court.

THIS CASE IS ASSIGNED TO JUDGE Mitchell

ENTERED this 5 day of March, 2010.

[Signature]
Judge #267

Copies sent 3 / 8 / 10 as follows:

☒ Prosecutor LD ☒ Defense Attorney LD ☒ Defendant JC ☒ TCA Office at fax 446-1224
☒ Assigned District Judge: ☐ Interoffice delivery ☒ faxed ☒ Jail (if in custody at fax 446-1407)
☐ KCSO Records fax 446-1307 (re: NCO)

Deputy Clerk Roger R. Roloff

ORIGINAL

BARRY McHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83816-1971
Telephone: (208) 446-1800

ASSIGNED ATTORNEY

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2010 MAR 10 AM 10:16

CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,

vs.

DAVID LOREN CURRY,
DOB: [REDACTED]
SSN: [REDACTED]
Defendant.

Case No. CR-F10-3389

INFORMATION

BARRY McHUGH, Prosecuting Attorney in and for the County of Kootenai, State of Idaho, who prosecutes in its behalf, comes now into Court, and does accuse **DAVID LOREN CURRY** of the crime(s) of **COUNT I: BURGLARY**, Idaho Code §18-1401; **COUNT II: AGGRAVATED ASSAULT**, Idaho Code §§18-901, 18-905; **COUNT III: UNLAWFUL POSSESSION OF A FIREARM**, Idaho Code §18-3316, and **COUNT IV, MALICIOUS INJURY TO PROPERTY**, Idaho Code §18-7001, committed as follows:

INFORMATION: Page 1

056

COUNT I

That the Defendant, DAVID LOREN CURRY, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did enter into the garage of a certain home, to-wit: a residence located at 911 Shasta Avenue, Post Falls, with the intent to commit the crime of witness intimidation and/or aggravated assault;

COUNT II

That the Defendant, DAVID LOREN CURRY, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word or act to do violence upon the person of Travis Escudero with a deadly weapon, to-wit: a handgun, which created a well-founded fear in said person that such violence was imminent;

COUNT III

That the Defendant, DAVID LOREN CURRY, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did possess and/or have under his custody or control a firearm, to wit: a handgun, knowing that he has been convicted of discharging a firearm at an occupied house, a felony crime, on or about 1997, and unlawful possession of a firearm, a felony crime, on or about 2006, both offenses having occurred in Kootenai County, Idaho;

COUNT IV

That the Defendant, DAVID LOREN CURRY, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did maliciously injure certain personal property, to-wit: a door and a car, the property of Travis Escudero, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the People of the State of Idaho.

PART II

The Prosecuting Attorney further informs the Court that the defendant, DAVID LOREN CURRY, while committing the offense of BURGLARY; AGGRAVATED ASSAULT, and UNLAWFUL POSSESSION OF A FIREARM as charged in the Information, had previously been convicted of at least two (2) prior separate felony offenses, and, pursuant to I.C. §19-2514, is properly considered a persistent violator. Defendant's previous convictions consist of the following felony offenses:

- 1) DISCHARGE A FIREARM AT A HOUSE, OCCUPIED BUILDING, Kootenai County, Idaho, Case #CR-1995-7625, convicted on 12/26/1997;
- 2) UNLAWFUL POSSESSION OF A FIREARM, Kootenai County, Idaho, Case #CR-2006-5304, convicted on 03/16/2006; and
- 3) FORGERY, Kootenai County, Idaho, Case #Cr-2005-16804, convicted on 08/08/2006.

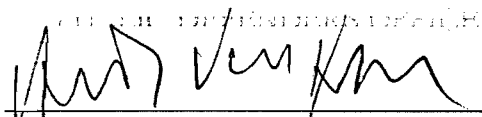
DATED this 9 day of MARCH, 2010.

BARRY McHUGH
PROSECUTING ATTORNEY
FOR KOOTENAI COUNTY, IDAHO


Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 9 day of MARCH, 2010, a true and correct copy of the foregoing and the Order Holding was caused to be mailed to: PUBLIC DEFENDERS OFFICE, FAXED


Deputy Prosecuting Attorney

Court Minutes:

Session: HAYNES040910
Session Date: 04/09/2010
Judge: Haynes, Lansing L.
Reporter: Johnson, Laurie

Division: DIST
Session Time: 08:00

Courtroom: Courtroom8

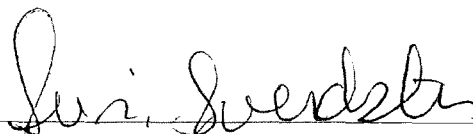
Clerk(s): Sverdsten, Suzi

State Attorney(s):
Raap, Marty
Shulsen, Jessica

Public Defender(s):
Neils, Martin
Walsh, Sean
Taylor, Anne
Whitaker, Jed

Prob. Officer(s):

Court interpreter(s):



Case ID: 0013

Case number: CR2010-3389
Plaintiff:
Plaintiff Attorney:
Defendant: CURRY, DAVID
Pers. Attorney:
Co-Defendant(s):
State Attorney: Raap, Marty
Public Defender: Taylor, Anne

04/09/2010

14:00:55

Recording Started:

14:00:55

Case called

14:01:01

Judge: Haynes, Lansing L.

ARRAIGNMENT, DEF IS IN CUSTODY.

14:01:13 **Public Defender: Taylor, Anne**
ENTER NG PLEA AND SET FOR TRIAL.

14:02:00 **Judge: Haynes, Lansing L.**
CHARGES READ.

14:02:47 **Defendant: CURRY, DAVID**
NOT GUILTY

14:02:55 **Judge: Haynes, Lansing L.**
3 DAY JT 7/6/10 9 AM AND PTC 6/24 8 AM.

14:04:22 **Stop recording**

ORIGINAL

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

151
CLERK OF DISTRICT COURT

CLERK OF DISTRICT COURT

DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAVID LOREN CURRY,

Defendant.

**CASE NUMBER CR-10-0003389
F/M**

MOTION FOR REDUCTION OF BOND

COMES NOW, the above named defendant, by and through his attorney, J. Bradford Chapman, Sr. Staff Attorney, and hereby moves the Court for its Order reducing the bond in this matter.

This motion is made pursuant to the 8th and 14th amendments of the U.S. Constitution; Article I, §§ 6 and 13 of the Idaho Constitution; and I.C.R., R.46.

This motion is made on the grounds that defendant has ties to the community and is not a flight risk, and the bond as set violates the defendant's rights to due process and to be free from excessive bond and cruel and unusual punishment as guaranteed by the U.S. and Idaho Constitutions.

Counsel requests that this motion be set for hearing in order to present oral argument, evidence and/or testimony in support thereof. Requested time is five minutes.

DATED this 20 day of April, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:



J. BRADFORD CHAPMAN
SR. STAFF ATTORNEY


CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 20 day of April, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833

☒ Via Fax

☐ Interoffice Mail



Jenfer Jengquene

Court Minutes:

Session: HAYNES050710A
Session Date: 05/07/2010
Judge: Haynes, Lansing L.
Reporter: Johnson, Laurie

Division: DIST
Session Time: 08:34

Courtroom: Courtroom9

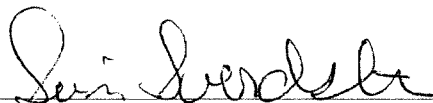
Clerk(s): Sverdsten, Suzi

State Attorney(s): Gardner, Donna

Public Defender(s):
Chapman, Brad
Taylor, Anne

Prob. Officer(s):

Court interpreter(s):



Case ID: 0005

Case number: CR2010-3389
Plaintiff:
Plaintiff Attorney:
Defendant: CURRY, DAVID
Pers. Attorney:
Co-Defendant(s):
State Attorney: Gardner, Donna
Public Defender: Chapman, Brad

05/07/2010

11:31:12

Recording Started:

11:31:12

Case called

11:31:17

Judge: Haynes, Lansing L.
BOND HEARING. DEF IS IN CUSTODY.

1 1:32:54 **Public Defender: Chapman, Brad**
DEF STANDS CHARGED WITH AN INFORMATION, AND AN
AMENDED INFO LODGED WITH
1 1:33:32 COURT. \$100,000 BOND CURRENTLY SET. 3/5 PH WAS
WAIVED. APPEARED B 4 YOUR
1 1:34:00 HONOR AND NG PLEA ENTERED. PTC AND JT IS SET.
DAVID HAS BEEN IN KC 1989,
1 1:34:25 BORN IN LEWISTON. HE WOULD LIVE WITH HIS
GRANDMOTHER AND MOTHER IN POST
1 1:34:45 FALLS. THAT IS WERE HE WAS LIVING AT THE TIME
OF HIS ARREST. HE HAD BEEN
1 1:35:29 LAYED OFF DUE TO ECONOMIC CONDITIONS. HE DOES
HAVE PRIORS. HE IS GETTING
1 1:36:17 FURTHER BEHIND ON HIS CHILD SUPPORT.

1 1:37:59 **State Attorney: Gardner, Donna**
ALARMING FACTS OF THE CASE. LENGTHY CRIMINAL
RECORD. HAS DONE A RIDER,
1 1:39:54 HABITUAL OFFENDER. BOND IS REASONABLE.

1 1:40:02 **Public Defender: Chapman, Brad**
NO INDICATION THAT ANYONE CLAIMED DEF POINTED A
GUN AT ANYONE.

1 1:40:46 **Judge: Haynes, Lansing L.**
PURPOSE OF BAIL GIVEN. RULE 46 FACTORS READ.
DISCRETION OF THE COURT.
11:42:36 CANNOT FIND \$100,000 ISN'T A REASONABLE AMOUNT
OF BAIL. DENIES MTN.

11:43:16 **Stop recording**

ORIGINAL

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

2010 MAY -7 AM 11:50

COURT
Jim Swersky

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

V.

DAVID LOREN CURRY,

Defendant.

CASE NUMBER CR-10-0003389
F/M

ORDER TO REDUCE BOND - *Denied*

The Court having before it the Motion for Bond Reduction and good cause appearing,
now, therefore

IT IS HEREBY ORDERED that bond in this matter is reduced to _____.

DATED this _____ day of April, 2010.

5-7-10

Lansing L. Haynes
LANSING L. HAYNES
DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy
of the same as indicated below on the 7 day of *May*, 2010, addressed to:

Kootenai County Public Defender FAX 446-1701
~~Kootenai County Jail FAX 446-1407~~
Kootenai County Prosecutor FAX 446-1833

Jim Swersky

BARRY McHUGH
Prosecuting Attorney
501 Govt. Way/Box 9000
Coeur d'Alene, ID 83816-1971
Telephone: (208) 446-1800
Fax: (208) 446-1833

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: LSS

2010 MAY 20 PM 3:43

CLERK DISTRICT COURT

DEPUTY

ASSIGNED ATTORNEY:
MARTY RAAP

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,)	
	)	CASE NO. CRF10-3389
)	
Plaintiff,)	
)	
vs.	)	WITNESS LIST
)	
DAVID CURRY,)	
Defendant.)	


The Plaintiff may call the following witnesses:

1. Travis Escudero, 911 E. Shasta Avenue, Post Falls;
2. Melissa Ferra, 555 N. Megan Street, Post Falls;
3. James Curry, 801 E. Glacier Peak Drive, Post Falls;
4. Lora Beauchamp, 801 E. Glacier Peak Drive, Post Falls;
5. Marlisa Gordon, 911 E. Shasta Avenue, Post Falls;
6. Det. Rod Gunderson, PFPD;
7. Officer Brett Chapman, PFPD;
8. Officer David Marshall, PFPD;
9. Officer Frank Bowne, PFPD;
10. Officer Kevin Schmeckpeper, PFPD;
11. Lt. Greg McLean, PFPD;
12. Officer Pat Knight, PFPD;
13. Officer Scott Harmon, PFPD;
14. Officer Paul Farina, PFPD;
15. Officer Mark Goodwin, PFPD;
16. Officer Peter McManus, PFPD;
17. Det. Brian Williamson, PFPD;
18. Jerry Lema, c/o Adult Probation and Parole;

WITNESS LIST

066

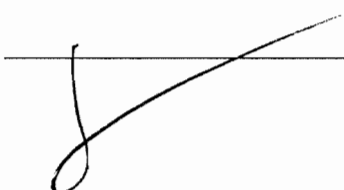
DATED this 19th day of May, 2010.


MARTY RAAP

Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 19 day of May, 2010, a true and correct copy
of the foregoing was caused to be sent interoffice mail to:
PUBLIC DEFENDERS



7102 1000
BARRY McHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83816-1971
Telephone: (208) 446-1800

ASSIGNED ATTORNEY
MARTY RAAP

151
JUN 24 PM 2:15

COURT
Suzi Swanson

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,

vs.

DAVID LOREN CURRY,
DOB: [REDACTED]
SSN: [REDACTED]
Defendant.

Case No. CR-F10-3389
**AMENDED
INFORMATION**

BARRY McHUGH, Prosecuting Attorney in and for the County of Kootenai, State of Idaho, who prosecutes in its behalf, comes now into Court, and does accuse **DAVID LOREN CURRY** of the crime(s) of: **COUNT I: BURGLARY**, Idaho Code §18-1401, 19-2514, **COUNT II: AGGRAVATED ASSAULT**, Idaho Code §18-901, 18-905, 19-2514, **COUNT III: UNLAWFUL POSSESSION OF A FIREARM**, Idaho Code §18-3316, 19-2514, and **COUNT IV, MALICIOUS INJURY TO PROPERTY**, Idaho Code §18-7001, committed as follows:

COUNT I

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did enter into the garage of a certain home, to-wit: a residence located at 911 Shasta Avenue, Post Falls, with the intent to commit the crime of witness intimidation and/or aggravated assault;

COUNT II

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word or act to do violence upon the person of Travis Escudero with a deadly weapon, to-wit: a handgun, which created a well-founded fear in said person that such violence was imminent;

COUNT III

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did possess and/or have under his custody or control a firearm, to wit: a handgun, knowing that he has been convicted of discharging a firearm at an occupied house, a felony crime, on or about 1997, and unlawful possession of a firearm, a felony crime, on or about 2006, both offenses having occurred in Kootenai County, Idaho;

COUNT IV

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did maliciously injure certain personal property, to-wit: a door and a car, the property of Travis Escudero, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the People of the State of Idaho.


PART II

The Prosecuting Attorney further informs the Court that the defendant, **DAVID LOREN CURRY**, while committing the offense of BURGLARY; AGGRAVATED ASSAULT, and UNLAWFUL POSSESSION OF A FIREARM as charged in the Information, had previously been convicted of at least two (2) prior separate felony offenses, and, pursuant to I.C. §19-2514, is properly considered a persistent violator. Defendant's previous convictions consist of the following felony offenses:

- 1) DISCHARGE A FIREARM AT A HOUSE, OCCUPIED BUILDING, Kootenai County, Idaho, Case #CR-1995-7625, convicted on 12/26/1997;
- 2) UNLAWFUL POSSESSION OF A FIREARM, Kootenai County, Idaho, Case #CR-2006-5304, convicted on 03/16/2006; and
- 3) FORGERY, Kootenai County, Idaho, Case #Cr-2005-16804, convicted on 08/08/2006.

DATED this 2nd day of April, 2010.

BARRY McHUGH
PROSECUTING ATTORNEY
FOR KOOTENAI COUNTY, IDAHO


MARTY RAAP
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 5 day of April, 2010, a true and correct copy of the foregoing was caused to be sent interoffice mail to:
PUBLIC DEFENDERS OFFICE

Court Minutes:

Session: HAYNES062410A
Session Date: 06/24/2010
Judge: Haynes, Lansing L.
Reporter: Johnson, Laurie

Division: DIST
Session Time: 08:00

Courtroom: Courtroom9

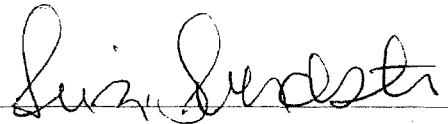
Clerk(s): Sverdsten, Suzi

State Attorney(s):
Gardner, Donna
Raap, Marty

Public Defender(s):
Nelson, Lynn
Walsh, Sean
Whitaker, Jed

Prob. Officer(s):

Court interpreter(s):



Case ID: 0006

Case number: CR2010-3389
Plaintiff:
Plaintiff Attorney:
Defendant: CURRY, DAVID
Pers. Attorney:
Co-Defendant(s):
State Attorney: Raap, Marty
Public Defender: Whitaker, Jed

06/24/2010

08:48:15

Recording Started:

08:48:15

Case called

08:48:22 **Judge: Haynes, Lansing L.**
PTC, DEF IS IN CUSTODY.

08:49:03 **Public Defender: Whitaker, Jed**
TRIAL

08:49:06 **State Attorney: Raap, Marty**
WITNESS UNAVAILABLE THRU JULY 7TH. ASK SET 2ND
WEEK. 3 DAY TRIAL.

08:50:25 **Judge: Haynes, Lansing L.**
AMENDED INFO LODGED IN FILE.

08:50:37 **Public Defender: Whitaker, Jed**
NO OBJ.

08:50:40 **Judge: Haynes, Lansing L.**
FILE AMENDED INFO.

08:50:57 **Defendant: CURRY, DAVID**
READY FOR TRIAL.

08:51:03 **Judge: Haynes, Lansing L.**
JURY INST. DUE 5 DAYS B 4 TRIAL.

08:51:31 **Stop recording**

STATE OF IDAHO)
County of Kootenai)ss
FILED 6-25-10
AT 11:20 O'Clock AM
CLERK, DISTRICT COURT

Sen. Verch
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

July 6, 2010

1. JENNIFER ARNOLD,
2. KENNETH ANDRE,
3. DAVID CURRY,
4. KIM BILBREY,

Defendant(s).

ORDER SETTING TRIAL
PRIORITY

CR2010-2771
CR2010-2566
CR2010-3389
CR2009-23664

The #1 above captioned cases remain active and scheduled for trial commencing **Tuesday, July 6, 2010, at 9:00 a.m.** Any remaining cases will be tried on a to-follow basis in the order listed above.

IT IS HEREBY ORDERED that counsel and parties are to be prepared to begin their respective trials at such time or as soon thereafter as trials with higher priority have concluded. In the event that the #1 case settles prior to the trial date, the trailing case will be advanced to start Tuesday morning at 9:00 a.m. If the #1 case settles on the day scheduled to begin trial, the next trailing case would commence with jury selection at 1:15 p.m. on Tuesday. If the #1 and #2 cases both settle on the day scheduled to begin trial, any trailing cases will begin at 9:00 a.m. on Wednesday of the trial week. It will be the responsibility of the parties to keep themselves informed of the status of all cases higher in priority.

Any cases not heard the week of July 6th, will be heard the week of July 12th, and will be tried on a to-follow basis.

Dated this 25 day of June, 2010.

Lansing L. Haynes
LANSING L. HAYNES
DISTRICT JUDGE

073

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 25 day of June, 2010, a true and correct copy of the foregoing Order Setting Trial Priority was faxed to:

Kootenai County Prosecutor
(Marty Raap, Art Verharen)
Fax: 208-446-1833

Kootenai County Public Defender
(Jedediah Whitaker, Sean Walsh, Brad Chapman)
Fax: 208-446-1701

Christopher Schwartz
Fax: 208-930-4972

Trial Court Administrator
Fax: 208-446-1224

Bailiff's Office
Fax: 208-446-1766

DANIEL ENGLISH
CLERK OF THE COURT

By Suzi Sordalen
Deputy Clerk

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

151
STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: JSS

2010 JUL -2 PM 2:44

CLERK DISTRICT COURT

DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAVID LOREN CURRY,

Defendant.

**CASE NUMBER CR-10-0003389
F/M**

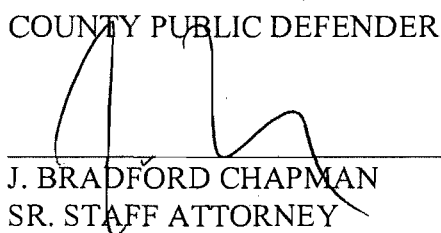
**MOTION REQUIRING KOOTENAI
COUNTY SHERIFF'S OFFICE TO
ACCEPT CLOTHING FOR DEFENDANT
TO WEAR DURING JURY TRIAL**

COMES NOW, the above named defendant, by and through his attorney, J. Bradford Chapman, Sr. Staff Attorney, and hereby moves the Court for an Order requiring the Kootenai County Sheriff to accept civilian clothing for the defendant to wear during a jury trial set to begin before the Honorable LANSING L. HAYNES on July 12, 2010.

DATED this 2 day of July, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:


J. BRADFORD CHAPMAN
SR. STAFF ATTORNEY

**MOTION REQUIRING KOOTENAI COUNTY
SHERIFF'S OFFICE TO ACCEPT CLOTHING
FOR DEFENDANT TO WEAR DURING JURY TRIAL**

Page 1

075

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by facsimile on the 2 day of July, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833

Jennifer Lequiere

**MOTION REQUIRING KOOTENAI COUNTY
SHERIFF'S OFFICE TO ACCEPT CLOTHING
FOR DEFENDANT TO WEAR DURING JURY TRIAL**

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

2010 JUL -6 AM 10:31

[Signature]
CLERK

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-10-0003389
	)	F/M
V.)	
	)	ORDER REQUIRING KOOTENAI
DAVID LOREN CURRY,	)	COUNTY SHERIFF'S OFFICE TO
	)	ACCEPT CLOTHING FOR DEFENDANT
Defendant.	)	TO WEAR DURING JURY TRIAL
)	

The Court having before it the Motion to require the Kootenai County Sheriff's Office to Accept Clothing for defendant to wear during his upcoming jury trial and good cause appearing,

IT IS HEREBY ORDERED that the Kootenai County Sheriff's Office shall accept a sufficient supply of clothing for the defendant to wear during his Jury Trial set to commence on July 12, 2010.

DATED this 6 day of July, 2010.

Lansing L. Haynes
LANSING L. HAYNES
DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was personally served by facsimile on the 6 day of July, 2010, addressed to:

Kootenai County Public Defender FAX 446-1701
Kootenai County Jail FAX 446-1407
Kootenai County Prosecutor FAX 446-1833

[Signature]

8292

**ORDER REQUIRING KOOTENAI COUNTY SHERIFF'S OFFICE TO ACCEPT
CLOTHING FOR DEFENDANT TO WEAR DURING JURY TRIAL**

Page 1

077

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2010 JUL -6 PM 2:43
CLERK DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)	
	)	CASE NUMBER CR-10-0003389
Plaintiff,	)	F/M
)	
V.	)	DEFENDANT'S REQUESTED
	)	JURY INSTRUCTIONS
DAVID LOREN CURRY,)	
)	
Defendant.)	
)	

COMES NOW, the above named defendant, by and through his attorney, J. Bradford Chapman, Deputy Public Defender, and respectfully submits the Defendant's Requested Jury Instructions No. 1 through 3, in addition to the Court's general instructions on the law.

DATED this 2 day of July, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

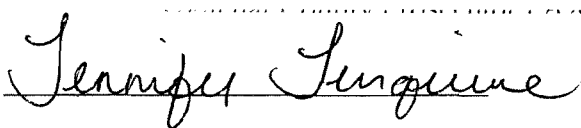
BY:


J. BRADFORD CHAPMAN
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 6 day of July, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833



078

ICJI 225 INCLUDED OFFENSES—TRANSITION

DEFENDANT'S REQUESTED
INSTRUCTION NO. 1

If your unanimous verdict is that the defendant is not guilty of burglary, you must acquit him of that charge. In that event, you must next consider the included offense of unlawful entry.

Comment

I.C. § 19-2132.

This instruction is intended to be inserted at the beginning of the instruction on the elements of an included offense.

The Committee used the phrase "included offense" rather than "lesser included offense" because an included offense is not always lesser in terms of punishment. *State v. Gilman*, 105 Idaho 891, 673 P.2d 1085 (Ct. App. 1983).

A trial court does not have a duty to instruct *sua sponte* on an included offense. A trial court is required to instruct the jury on included offenses only if: (1) one of the parties requests the instruction, and (2) a reasonable view of the evidence would support a finding that the defendant committed the included offense but did not commit the greater offense. *State v. Porter*, 130 Idaho 772, 948 P.2d 127 (1997); I.C. § 19-2132.

An offense is an included offense if it meets the requirements of either the "statutory theory" or the "pleading theory."

(1) The statutory theory focuses solely upon the statutory definitions of the two offenses. An offense is an included offense if, considering only the statutory definitions of both crimes, you could not commit the charged offense without also committing the included offense. This would occur in either of two situations:

(a) All of the statutory elements of the included offense are statutory elements of the charged offense. For example, voluntary manslaughter is an included offense of second degree murder because second degree murder contains all of the elements of manslaughter plus the additional element of malice. *State v. Atwood*, 105 Idaho 315, 669 P.2d 204 (Ct. App. 1983). Conversely, under the statutory theory robbery would not be an included offense of felony murder even where the murder was committed during the course of a robbery because the statutory definition of felony murder does not always require the commission of a

robbery. There are other felonies upon which felony murder can be based. *Sivak v. State*, 112 Idaho 197, 731 P.2d 192 (1986).

(b) The charged offense could not be committed without committing the included offense, even though all of the elements of the included offense are not elements of the charged offense. For example, if the victim is under sixteen years of age, lewd and lascivious conduct is an included offense of statutory rape because the defendant's conduct leading up to the rape would constitute the crime of lewd and lascivious conduct as well. *State v. Petty*, 73 Idaho 136, 248 P.2d 218 (1952); *State v. Gilman*, 105 Idaho 891, 673 P.2d 1085 (Ct. App. 1983). None of the elements of the two offenses are identical, however.

(2) The pleading theory focuses upon the charging language in the complaint, indictment, or information. Under the pleading theory, an offense is an included offense if:

(a) The offense is alleged in the complaint, indictment, or information as being the manner or means by which the charged offense was committed. For example, in *State v. Anderson*, 82 Idaho 293, 352 P.2d 972 (1960), driving while under the influence and reckless driving were included offenses in the charge of negligent homicide because the information charging the defendant with negligent homicide alleged that he committed such offense by driving while under the influence of alcohol and in a reckless manner.

(b) The offense is alleged in the complaint, indictment, or information as being an element of the charged offense. For example, under the pleading theory robbery would be an included offense of felony murder if it was alleged in the indictment or information that the murder occurred during the commission of a robbery. *Sivak v. State*, supra.

The Idaho Appellate Courts had previously recognized a third category of included offenses in which the evidence at trial showed the commission of a lesser similar offense. *State v. Boyenger*, 95 Idaho 396, 509 P.2d 1317 (1973) (the crime of receiving money or property by false pretenses was held to be an included offense of the crime of false or fraudulent use of a credit card); *State v. Mason*, 111 Idaho 660, 726 P.2d 772 (Ct. App. 1986) (exhibiting a deadly weapon was held to be an included offense of the crime of aggravated assault). This third category of included offenses has since been rejected. *State v. Rosencrantz*, 130 Idaho 666, 946 P.2d 628 (1997) (eluding and reckless driving were not included offenses of aggravated DUI); *State v. Curtis*, 130 Idaho 522, 944 P.2d 119 (1997) (inattentive driving is not an included offense of DUI).

There can be more than one included offense. *State v. Olsen*, 103 Idaho 278, 674 P.2d 734 (1982) (trial court correctly instructed the jury regarding six offenses included in the charged offense).

The charged offense gives the defendant presumptive notice of any included offense. *State v. Padilla*, 101 Idaho 713, 620 P.2d 286 (1980); *State v. Gilman*, supra.

GIVEN _____

REFUSED ✓ _____

ACCEPTED _____

MODIFIED _____

COVERED _____

Lansing L. Haynes
JUDGE

ICJI 225 INCLUDED OFFENSES—TRANSITION

DEFENDANT'S REQUESTED
INSTRUCTION NO. 2

If your unanimous verdict is that the defendant is not guilty of aggravated assault, you must acquit him of that charge. In that event, you must next consider the included offense of disturbing the peace.

Comment

I.C. § 19-2132.

This instruction is intended to be inserted at the beginning of the instruction on the elements of an included offense.

The Committee used the phrase "included offense" rather than "lesser included offense" because an included offense is not always lesser in terms of punishment. *State v. Gilman*, 105 Idaho 891, 673 P.2d 1085 (Ct. App. 1983).

A trial court does not have a duty to instruct *sua sponte* on an included offense. A trial court is required to instruct the jury on included offenses only if: (1) one of the parties requests the instruction, and (2) a reasonable view of the evidence would support a finding that the defendant committed the included offense but did not commit the greater offense. *State v. Porter*, 130 Idaho 772, 948 P.2d 127 (1997); I.C. § 19-2132.

An offense is an included offense if it meets the requirements of either the "statutory theory" or the "pleading theory."

(1) The statutory theory focuses solely upon the statutory definitions of the two offenses. An offense is an included offense if, considering only the statutory definitions of both crimes, you could not commit the charged offense without also committing the included offense. This would occur in either of two situations:

(a) All of the statutory elements of the included offense are statutory elements of the charged offense. For example, voluntary manslaughter is an included offense of second degree murder because second degree murder contains all of the elements of manslaughter plus the additional element of malice. *State v. Atwood*, 105 Idaho 315, 669 P.2d 204 (Ct. App. 1983). Conversely, under the statutory theory robbery would not be an included offense of felony murder even where the murder was committed during the course of a robbery because the statutory definition of felony murder does not always require the commission of a

robbery. There are other felonies upon which felony murder can be based. *Sivak v. State*, 112 Idaho 197, 731 P.2d 192 (1986).

(b) The charged offense could not be committed without committing the included offense, even though all of the elements of the included offense are not elements of the charged offense. For example, if the victim is under sixteen years of age, lewd and lascivious conduct is an included offense of statutory rape because the defendant's conduct leading up to the rape would constitute the crime of lewd and lascivious conduct as well. *State v. Petty*, 73 Idaho 136, 248 P.2d 218 (1952); *State v. Gilman*, 105 Idaho 891, 673 P.2d 1085 (Ct. App. 1983). None of the elements of the two offenses are identical, however.

(2) The pleading theory focuses upon the charging language in the complaint, indictment, or information. Under the pleading theory, an offense is an included offense if:

(a) The offense is alleged in the complaint, indictment, or information as being the manner or means by which the charged offense was committed. For example, in *State v. Anderson*, 82 Idaho 293, 352 P.2d 972 (1960), driving while under the influence and reckless driving were included offenses in the charge of negligent homicide because the information charging the defendant with negligent homicide alleged that he committed such offense by driving while under the influence of alcohol and in a reckless manner.

(b) The offense is alleged in the complaint, indictment, or information as being an element of the charged offense. For example, under the pleading theory robbery would be an included offense of felony murder if it was alleged in the indictment or information that the murder occurred during the commission of a robbery. *Sivak v. State*, supra.

The Idaho Appellate Courts had previously recognized a third category of included offenses in which the evidence at trial showed the commission of a lesser similar offense. *State v. Boyenger*, 95 Idaho 396, 509 P.2d 1317 (1973) (the crime of receiving money or property by false pretenses was held to be an included offense of the crime of false or fraudulent use of a credit card); *State v. Mason*, 111 Idaho 660, 726 P.2d 772 (Ct. App. 1986) (exhibiting a deadly weapon was held to be an included offense of the crime of aggravated assault). This third category of included offenses has since been rejected. *State v. Rosencrantz*, 130 Idaho 666, 946 P.2d 628 (1997) (eluding and reckless driving were not included offenses of aggravated DUI); *State v. Curtis*, 130 Idaho 522, 944 P.2d 119 (1997) (inattentive driving is not an included offense of DUI).

There can be more than one included offense. *State v. Olsen*, 103 Idaho 278, 674 P.2d 734 (1982) (trial court correctly instructed the jury regarding six offenses included in the charged offense).

The charged offense gives the defendant presumptive notice of any included offense. *State v. Padilla*, 101 Idaho 713, 620 P.2d 286 (1980); *State v. Gilman*, supra.

GIVEN _____

REFUSED ✓

ACCEPTED _____

MODIFIED _____

COVERED _____

Lansing L. Haynes
JUDGE

ICJI 103 REASONABLE DOUBT

DEFENDANT'S REQUESTED
INSTRUCTION NO. 3

A defendant in a criminal action is presumed to be innocent. This presumption places upon the state the burden of proving the defendant guilty beyond a reasonable doubt. Thus, a defendant, although accused, begins the trial with a clean slate with no evidence against the defendant. If, after considering all the evidence and my instructions on the law, you have a reasonable doubt as to the defendant's guilt, you must return a verdict of not guilty.

Reasonable doubt is defined as follows: It is not mere possible doubt, because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is the state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

Comment

This is the standard "reasonable doubt" instruction that has been approved by the Supreme Court for use in Idaho. *See State v. Rhoades*, 121 Idaho 63, 82, 822 P.2d 960, 979 (1991); *State v. Cotton*, 100 Idaho 573, 577, 602 P.2d 71, 75 (1979). An alternative, proposed by the ICJI Committee but not approved as to form or content by case-law decision of the Supreme Court, appears as ICJI 103A.

GIVEN _____

REFUSED _____

ACCEPTED _____

MODIFIED _____

COVERED ✓ _____

Lansing L. Haynes
JUDGE

7-10-10

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

BARRY McHUGH
Prosecuting Attorney
501 Govt. Way/Box 9000
Coeur d'Alene, ID 83814
Telephone: (208) 446-1800

2010 JUL -8 AM 10:44

CLERK DISTRICT COURT

DEPUTY

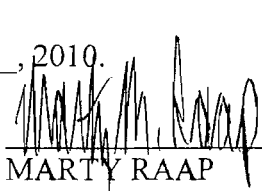
ASSIGNED ATTORNEY:
MARTY RAAP

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,	)	Case No. CR10-3389
)	
)	
Plaintiff,	)	PLAINTIFF'S
	)	REQUESTED JURY
vs.	)	INSTRUCTIONS
)	
DAVID CURRY,)	
)	
Defendant.)	

The Plaintiff herein respectfully submits the following requested jury instructions in addition to the Court's general instructions on the law.

DATED this 6th day of July, 2010.


MARTY RAAP
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 7 day of July, 2010, a true and correct copy of the foregoing was caused to be hand delivered as follows:
PUBLIC DEFENDERS

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 1

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged in Count I, with the crime of BURGLARY, alleged to have occurred as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did enter into the garage of a certain home, to-wit: a residence located at 911 Shasta Avenue, Post Falls, with the intent to commit the crime of witness intimidation and/or aggravated assault. To this charge the defendant has plead not guilty.

Citation: Idaho Code Section 18-1401

Given: _____

Refused: _____

Modified: _____

Covered: _____

JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 2

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged in
Count II with the crime of AGGRAVATED ASSAULT, allegedly committed as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010,
in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability
threaten by word or act to do violence upon the person of Travis Escudero with a deadly weapon, to-
wit: a handgun, which created a well-founded fear in said person that such violence was imminent.
To this charge the defendant has pled not guilty.

Idaho Code Section 18-901,18-905

Given:
Refused:
Modified:
Covered:

JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 3

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged in Count III with the crime of UNLAWFUL POSSESSION OF A FIREARM, alleged to have been committed as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did possess and/or have under his custody or control a firearm, to wit: a handgun, knowing that he has been convicted of discharging a firearm at an occupied house, a felony crime, on or about 1997, and unlawful possession of a firearm, a felony crime, on or about 2006, and/or forgery, a felony crime, on or about 2006, each offense having occurred in Kootenai County, Idaho. To this charge, the defendant has pled not guilty.

CITATION: IC §18-3316

GIVEN:

REFUSED:

MODIFIED:

COVERED:

JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 4

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged, in Count IV, with the crime of MALICIOUS INJURY TO PROPERTY alleged to have occurred as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did maliciously injure certain personal property, to-wit: a door and a car, the property of Travis Escudero. To this charge the defendant has plead not guilty.

Citation: Idaho Code Section 18-7001

GIVEN: _____

REFUSED: _____

MODIFIED: _____

COVERED: _____

JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 5

In order for the defendant, **DAVID LOREN CURRY**, to be guilty of Burglary, as charged in
Count I, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. In the State of Idaho;
3. The defendant, **DAVID LOREN CURRY**, entered a building, and;
4. At the time entry was made, the defendant had the specific intent to commit witness
intimidation and/or aggravated assault.

If any of the above has not been proven beyond a reasonable doubt, then you must find the
defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must
find the defendant guilty.

Citation: I.C. ICJI 511

Given: _____

Refused: _____

Modified: _____

Covered: _____

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 4

YOU ARE INSTRUCTED that witness intimidation occurs when a person wilfully threatens or harasses a potential witness from testifying freely at a criminal proceeding.

Citation:
Given: _____
Refused: _____
Modified: _____
Covered: _____

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 7

To prove that the defendant intended to commit witness intimidation and/or aggravated assault inside the building the state is not required to prove the defendant actually committed or attempted to commit witness intimidation or aggravated assault. The state need only prove that when the defendant entered the building the defendant intended to commit witness intimidation or aggravated assault.

Citation: ICJI 514 (modified)

Given: _____

Refused: _____

Modified: _____

Covered: _____

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 8

The manner or method of entry is not an essential element of the crime of burglary. An entry can occur without the use of force or the breaking of anything.

The intent to commit the crime of witness intimidation and/or aggravated assault must have existed at the time of entry.

Citation: ICJI 515

Given: _____

Refused: _____

Modified: _____

Covered: _____

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 9

In order for the defendant to be guilty of Aggravated Assault, as charged in Count II, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. in the state of Idaho;
3. the defendant, **DAVID LOREN CURRY**, committed an assault upon Travis Escudero;
4. with a deadly weapon and/or by means or force likely to produce great bodily harm.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

ICJI 1205

Given:
Refused:
Modified:
Covered:

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 10

An "assault" is committed when a person:

- (1) unlawfully attempts, with apparent ability, to commit a violent injury on the person of another; or
- (2) intentionally and unlawfully threatens by word or act to do violence to the person of another, with an apparent ability to do so, and does some act which creates a well-founded fear in the other person that such violence is imminent.

ICJI 1201

Given:

Refused:

Modified:

Covered:

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 11

A "deadly weapon or instrument" is one likely to produce death or great bodily injury. It also includes any other object that is capable of being used in a deadly or dangerous manner if the person intends to use it as a weapon.

A "deadly weapon or instrument" as used in this chapter is defined to include any firearm, though unloaded or so defective that it cannot be fired.

ICJI 1206

Given:
Refused:
Modified:
Covered:

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 12

In order for the defendant to be guilty of Unlawfully Possessing a Firearm, as charged in Count III, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. in the state of Idaho;
3. the defendant, **DAVID LOREN CURRY**, possessed or had under his custody or had under his control, a firearm, and;
4. the defendant previously had been convicted of or plead guilty to a felony.

If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty. If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty.

CITATION: ICJI 1401

GIVEN:
REFUSED:
MODIFIED:
COVERED:

JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 13

To establish the defendant, **DAVID LOREN CURRY**, was convicted of a felony,
the state must prove that he pled guilty to or was found guilty of the following crime:

The crime of Discharging a Firearm at an Occupied House and/or Unlawful
Possession of a Firearm and/or Forgery, which are all felonies under the law of the State of
Idaho.

CITATION: ICJI 1403

GIVEN:
REFUSED:
MODIFIED:
COVERED:

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 14

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it.

More than one person can be in possession of something if each knows of its presence and has the power and intention to control it.

CITATION: ICJI 421

GIVEN:

REFUSED:

MODIFIED:

COVERED:

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 15

YOU ARE INSTRUCTED that in order for the defendant, **DAVID LOREN CURRY**, to be guilty of MALICIOUS INJURY TO PROPERTY, as charged in Count IV, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. in State of Idaho;
3. the defendant, **DAVID LOREN CURRY**, did;
4. maliciously injure or destroy;
5. certain real or personal property;
6. the property of Travis Escudero;

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

Citation: Idaho Code 18-7001

GIVEN: _____

REFUSED: _____

MODIFIED: _____

COVERED: _____

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 16

YOU ARE INSTRUCTED that the definition of "malice" and "maliciously" import a wish to hex, annoy, or injure another person, or an intent to do a wrongful act, established either for proof or presumption of law"

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 17

It is alleged that the crime charged was committed "on or about" a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

Citation: I.C. ICJI 208

Given: _____

Refused: _____

Modified: _____

Covered: _____

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 18

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

Citation: I.C. ICJI 106

Given: _____

Refused: _____

Modified: _____

Covered: _____

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO 14

Having found the defendant guilty of **BURGLARY** and/or **AGGRAVATED ASSAULT** and/or **UNLAWFUL POSSESSION OF A FIREARM**, you must next consider whether he has been convicted on at least two occasions of felony offenses. The State alleges:

1. The Defendant was convicted of DISCHARGE A FIREARM AT A HOUSE, OCCUPIED BUILDING, Kootenai County, Idaho, Case #CR-1995-7625, on or about 12/26/1997.
2. The Defendant was convicted of UNLAWFUL POSSESSION OF A FIREARM, Kootenai County, Idaho, Case #CR-2006-5304, on or about 03/16/2006.
3. The Defendant was convicted of FORGERY, Kootenai County, Idaho, Case #CR05-16804, on or about 08/08/2006.

The existence of a prior conviction must be proved beyond a reasonable doubt and your decision must be unanimous.

YOU ARE FURTHER INSTRUCTED that in the State of Idaho, (the crimes listed above), are felony offenses.

Citation: ICJI 1601 (modified)

Given: _____

Refused: _____

Modified: _____

Covered: _____

JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 20

In this portion of the case you will return a verdict, consisting of a question you should answer. Since the explanations on the form which you will have are part of my instructions to you, I will read the body of the verdict form to you.

We, the Jury, duly empaneled and sworn to try the above entitled action, for special verdict, unanimously answer the question submitted to us as follows:

QUESTION : Was the defendant previously convicted on at least two prior felony offenses?

YES _____

NO _____

Citation:

Given: _____

Refused: _____

Modified: _____

Covered: _____

JUDGE

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

2010 JUL 13 AM 8:35

Sein Sweidter

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,

Plaintiff,

v.

DAVID LOREN CURRY,

Defendant.

CASE NUMBER CR-10-0003389

DEFENDANT'S WRITTEN PLEA

I, DAVID CURRY, having been advised of my rights do acknowledge the following:

1. I am represented by my lawyer, J. Bradford Chapman.
2. I am charged with having committed the following crime(s):

COUNT IV – MALICIOUS INJURY TO PROPERTY 18-7001 which is punishable by imprisonment not to exceed one (1) year and a fine not to exceed one thousand dollars (\$1,000.00) or both.

3. I am 34 years of age. I have HSE years of education. I do not have any trouble in reading and understanding the English language.

4. I understand that I have the following rights, which I keep if I plead **not guilty**:

a. I have a right to a trial before a jury of 12 persons; that the state must convince each of those 12 persons of my guilt beyond a reasonable doubt; that in order to prove its case, the state must call witnesses to testify, under oath, before me, before the jury and before my lawyer. My lawyer would have the right to question those witnesses or cross examine them.

b. I would have the right to call witnesses of my choosing to testify concerning my guilt or innocence. If I do not have the money to bring those witnesses to court the state would pay the cost of bringing those witnesses to court.

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c. I have the absolute right to remain silent throughout my entire trial. I cannot be compelled to testify.

5. I understand that if I plead "guilty," I will give up all of the rights recited in

Paragraph 4. That is:

a. There will be no trial. There will be no witnesses concerning my guilt or innocence. I will waive my right to remain silent. In fact, I can be required to take the oath and testify about the matters to which I have pled guilty.

b. If I pled guilty, I will give up any right to contest or object to anything that has happened in my case prior to the time I enter my guilty plea. For example, I will not be able to challenge the method or manner of my arrest, or of any searches of my person or property, or of any confession or statement I may have made.

c. If I pled guilty, I will be considered to have admitted each of the facts alleged in the charge to which I pled guilty.

6. At the time I sign this plea, I am not under the influence of any drugs or alcohol that in any way interferes with my ability to understand what I am doing. I am not suffering any mental illness or disability that interferes with my ability to understand what I am doing.

7. ☒ I am in custody. My bail is set at \$ 100,000.
- ☐ I am not in custody. _____.
- ☐ My residence is at _____.
- ☐ My mailing address is _____.

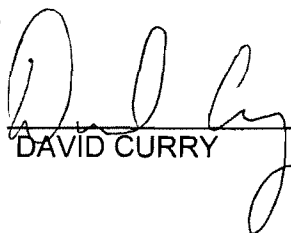
8. I have discussed the charges against me and all the matters set forth in this form with my lawyer.

____ 9. I plead **NOT GUILTY** to all charges.

~~____ 10. There is a plea bargain. If there is, a written copy is attached to this plea. I understand and agree that the judge is not bound by any such plea bargain.~~

X 11. I plead **GUILTY** to the charges in Count(s) IV of the Information. I have not been promised anything in order to get me to plead guilty. No one has threatened me to get me to plead guilty. I enter this plea freely, voluntarily and knowing that the judge could sentence me to the maximum punishment for the crime(s) I have pled guilty. I did the things and acts alleged in the charge(s) to which I pled guilty.

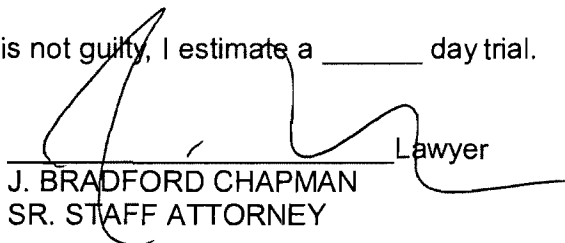
Dated this 13 day of July, 2010.



DAVID CURRY Defendant

CERTIFICATE OF LAWYER

I concur with the foregoing plea. If the plea is not guilty, I estimate a _____ day trial.



J. BRADFORD CHAPMAN
SR. STAFF ATTORNEY Lawyer

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of _____, 2010, a true and correct copy of the foregoing was mailed, postage prepaid, or sent by facsimile or interoffice mail to:

Kootenai County Prosecuting Attorney

By _____

BARRY McHUGH
Prosecuting Attorney
501 Government Way/Box 9000
Coeur d'Alene, ID 83816-1971
Telephone: (208) 446-1800

ASSIGNED ATTORNEY
MARTY RAAP

2010 JUL 13 PM 1:06

CLERK OF DISTRICT COURT
[Signature]
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,
Plaintiff,

vs.

DAVID LOREN CURRY,
DOB: [REDACTED]
SSN: [REDACTED]
Defendant.

Case No. CR-F10-3389
**SECOND AMENDED
INFORMATION**

COMES NOW, **BARRY McHUGH**, Prosecuting Attorney in and for the County of Kootenai, State of Idaho, who prosecutes in its behalf, comes now into Court, and does accuse **DAVID LOREN CURRY** of the crime(s) of: **COUNT I: BURGLARY**, Idaho Code §18-1401, 19-2514, **COUNT II: AGGRAVATED ASSAULT**, Idaho Code §18-901, 18-905, 19-2514, **COUNT III: UNLAWFUL POSSESSION OF A FIREARM**, Idaho Code §18-3316, 19-2514, and **COUNT IV, MALICIOUS INJURY TO PROPERTY**, Idaho Code §18-7001, committed as follows:

SECOND AMENDED INFORMATION:

COUNT I

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did enter into the garage of a certain home, to-wit: a residence located at 911 Shasta Avenue, Post Falls, with the intent to commit the crime of witness intimidation and/or aggravated assault;

COUNT II

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word or act to do violence upon the person of Travis Escudero with a deadly weapon, to-wit: a handgun, which created a well-founded fear in said person that such violence was imminent;

COUNT III

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did possess and/or have under his custody or control a firearm, to wit: a handgun, knowing that he has been convicted of discharging a firearm at an occupied house, a felony crime, on or about 1997, and/or unlawful possession of a firearm, a felony crime, on or about 2006, each offense having occurred in Kootenai County, Idaho;

COUNT IV

That the Defendant, **DAVID LOREN CURRY**, on or about the 18th day of February, 2010, in the County of Kootenai, State of Idaho, did maliciously injure certain personal property, to-wit: a door and a car, the property of Marlisa Gordon ~~and/or Travis Escudero~~ ^{h.h.}, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the People of the State of Idaho.

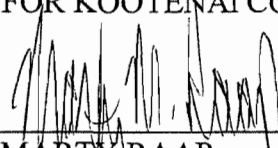
PART II

The Prosecuting Attorney further informs the Court that the defendant, **DAVID LOREN CURRY**, while committing the offense of BURGLARY; AGGRAVATED ASSAULT, and UNLAWFUL POSSESSION OF A FIREARM as charged in the Information, had previously been convicted of at least two (2) prior separate felony offenses, and, pursuant to I.C. §19-2514, is properly considered a persistent violator. Defendant's previous convictions consist of the following felony offenses:

- 1) DISCHARGE A FIREARM AT A HOUSE, OCCUPIED BUILDING, Kootenai County, Idaho, Case #CR-1995-7625, convicted on 12/26/1997;
- 2) UNLAWFUL POSSESSION OF A FIREARM, Kootenai County, Idaho, Case #CR-2006-5304, convicted on 03/16/2006; and
8/09/2006
- 3) FORGERY, Kootenai County, Idaho, Case #Cr-2005-16804, convicted on 08/08/2006.

DATED this 12th day of July, 2010.

BARRY McHUGH
PROSECUTING ATTORNEY
FOR KOOTENAI COUNTY, IDAHO


MARTY RAAP
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 12 day of July, 2010, a true and correct copy of the foregoing was caused to be sent interoffice mail to:
PUBLIC DEFENDERS OFFICE

Court Minutes:

Session: HAYNES071210A
Session Date: 07/12/2010
Judge: Haynes, Lansing L.
Reporter: Johnson, Laurie

Division: DIST
Session Time: 09:00

Courtroom: Courtroom9

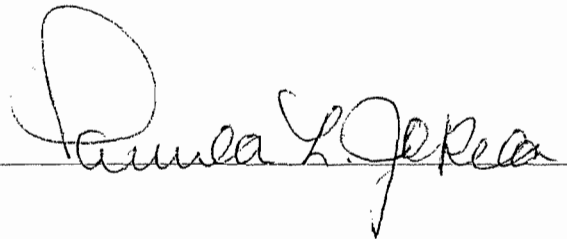
Clerk(s): Jokela, Pam

State Attorney(s): Raap, Marty

Public Defender(s): Chapman, Brad

Prob. Officer(s):

Court interpreter(s):



Case ID: 0001

Case number: CR2010-3389
Plaintiff:
Plaintiff Attorney:
Defendant: CURRY, DAVID LOREN
Pers. Attorney:
Co-Defendant(s):
State Attorney: Raap, Marty
Public Defender: Chapman, Brad

07/12/2010

09:24:05

Recording Started:

09:24:05

Case called

09:24:12

Judge: Haynes, Lansing L.
CALLS CASE

09:24:15

Add Ins: JURY TRIAL

09:24:16

State Attorney: Raap, Marty

09:24:27 **Public Defender: Chapman, Brad**

09:24:33 **Defendant: CURRY, DAVID LOREN**
PRESENT

09:24:37 **Judge: Haynes, Lansing L.**
ARE THE PARTIES READY TO PROCEED?

09:24:45 **State Attorney: Raap, Marty**
YES

09:24:46 **Public Defender: Chapman, Brad**
YES

09:24:48 **Judge: Haynes, Lansing L.**
EXPLAINS THE NUMBER SYSTEM FOR THE JURORS

09:27:28 **Add Ins: CLERK**
CALLS ROLL OF THE JURORS

09:28:00 SWEARS THE WHOLE JURY PANEL

09:28:13 **Judge: Haynes, Lansing L.**
READS FIRST PART OF THE INSTRUCTIONIS

09:29:52 **Add Ins: CLERK**
CALLS THE NUMBER OF 35 JURORS

09:39:55 **Judge: Haynes, Lansing L.**
VOIR DIRE OF THE 35 PROSPECTIVE JURORS

09:48:03 **State Attorney: Raap, Marty**
READS THE NAME OF WITNESSES TO CALL

09:48:42 **Judge: Haynes, Lansing L.**
CONTINUES WITH VOIR DIRE OF THE 35 PROSPECTIVE
JURORS

09:51:23 **Public Defender: Chapman, Brad**
READS THE NAME OF WITNESSES TO CALL

09:52:08 **Judge: Haynes, Lansing L.**
CONTINUES WITH VOIR DIRE OF THE 35 PROSPECTIVE
JURORS

10:01:44 EXCUSES JUROR #34

10:01:59 **Add Ins: CLERK**
CALLS THE NUMBER OF ANOTHER JUROR

10:03:49 **Judge: Haynes, Lansing L.**
CONTINUES WITH VOIR DIRE OF THE 35 PROSPECTIVE
JURORS

10:05:06 EXCUSES JUROR #9

10:05:48 **Add Ins: CLERK**
CALLS THE NUMBER OF ANOTHER JUROR

10:05:54 **Judge: Haynes, Lansing L.**
CONTINUES WITH VOIR DIRE OF THE 35 PROSPECTIVE
JURORS

10:07:36 EXCUSES JUROR #57

10:07:44 **Add Ins: CLERK**
CALLS THE NUMBER OF ANOTHER JUROR

10:08:15 **Judge: Haynes, Lansing L.**
CONTINUES WITH VOIR DIRE OF THE 35 PROSPECTIVE
JURORS

10:09:42 EXCUSES JUROR #32

10:09:50 **Add Ins: CLERK**
CALLS THE NUMBER OF ANOTHER JUROR

10:10:27 **Judge: Haynes, Lansing L.**
CONTINUES WITH VOIR DIRE OF THE 35 PROSPECTIVE
JURORS

10:13:16 I WILL GIVE YOU A 15 MINUTE BREAK - DO NOT TALK
ABOUT HTE CASE - DON'T FORM

10:13:33 AN OPINION - ALL 35 JURORS MUST SEAT IN YOUR
SEATS TAHT YOU ARE IN RIGHT NOW

10:13:59 **Stop recording**
(On Recess)

10:31:55
Recording Started:

10:31:55 **Record**
CURRY, DAVID LOREN

10:31:55 **Judge: Haynes, Lansing L.**
BACK ON THE RECORD

10:32:00 **State Attorney: Raap, Marty**
VOIR DIRE OF THE 35 PROSPECTIVE JURORS

10:42:34 PASS THE PANEL FOR CAUSE

10:42:39 **Public Defender: Chapman, Brad**
VOIR DIRE OF THE 35 PROSPECTIVE JURORS

10:44:56 **State Attorney: Raap, Marty**
OBJECTIVE - ARGUMENTATIVE

10:45:04 **Judge: Haynes, Lansing L.**
SUSTAIN THE FORM OF THE QUESTION

10:45:13 **Public Defender: Chapman, Brad**
CONTINUES VOIR DIRE OF THE 35 PROSPECTIVE JURORS

10:54:35 PASS THIS PANEL FOR CAUSE

10:54:40 **Judge: Haynes, Lansing L.**
PRE-EMPORY CHALLENGES - COME BACK AT 11:15 AM
- DO NOT COME BACK TO YOUR

10:55:02 SEATS - WE WILL BE SITTING OUR 13 JURORS - NO
SPEAKING OF THIS MATTER

10:55:27 **Stop recording**
(On Recess)

11:22:15
Recording Started:

11:22:15 **Record**
CURRY, DAVID LOREN

11:22:16 **Judge: Haynes, Lansing L.**
BACK ON THE RECORD

11:22:20 MET IN CHAMBERS TO LET THE ATTORNEY'S DO THERE
PREEMPTORY CHALLENGES

11:22:39 SEATS THE FINAL 13 JURORS TO HEAR THE CASE

11:24:44 THOSE WHOSE NUMBERS WHERE NOT CALLED - YOU ARE
EXCUSED FOR THE REST OF THE

11:24:59 WEEK - THANK YOU FOR YOUR SERVICE

11:25:56 AS YOU NOTICE WHEN YOU COME AND GO FROM THE
COURTROOM - THE COURT STAFF AND

11:26:10 ATTORNEY DO STAND FOR YOU - IT IS IN HONOR OF

YOURSELF

11:26:26 **Add Ins: CLERK**
SWEARS THE SELECTED PANEL

11:26:56 **Judge: Haynes, Lansing L.**
READS THE OPENING JURY INSTRUCTIONS

11:39:27 WE WILL RELEASE YOU FOR EARLY LUNCH - COME BACK
AT 1:15 PM - TO START OUR

11:39:45 OPENING STATEMENT -

11:40:02 DO NOT TALK ABOUT THIS CASE -

11:40:54 THE JURY IS NOT PRESENT - COME BACK AT 1 PM -
COURT DECISIONS OF THE PROOF OF

11:41:13 THE COUNTS - NOTICE OF 404B EVIDENCE

11:41:41 **Stop recording**
(On Recess)

13:05:21
Recording Started:

13:05:21 **Record**
CURRY, DAVID LOREN

13:05:22 **Judge: Haynes, Lansing L.**
BACK ON THE RECORD - JURY IS NOT PRESENT - MAKE
A RECORD OF THE MATTERS TAHT

13:05:35 WERE DISCUSSED IN CHAMBERS THIS MORNING - THE
COURT IN CHAMBERS TO HAVE THE

13:05:59 STATE PUT ON THE CASE TO COUNT 1 & 2 AND THE
DEFENSE WILL PLEAD GUILTY TO

13:06:22 COUNT 4 - MALISCIOUS INJURY - PROPERTY OWNER OF

13:06:50 **Public Defender: Chapman, Brad**
MY SECONDED AMENDED INFORMATION - MARLYSIS
GORDON AND/OR TRAVIS ESCUDERO -

13:07:15 **Judge: Haynes, Lansing L.**
I HAVE STRICKEN AND/OR TRAVIS ESCUDERO

13:07:26 **Public Defender: Chapman, Brad**
WE WILL ENTER A GUILTY PLEA TO COUNT 4 - WE CAN
DO PAPERWORK

13:07:41 **Judge: Haynes, Lansing L.**
THAT WILL BE A WRITTEN GUILTY PLEA - HAVE YOU

13:07:56 SPOKEN TO YOUR ATTORNEY AS TO
PLEADING GUILTY PLEA TO COUNT 4?

13:08:06 **Defendant: CURRY, DAVID LOREN**
YES -

13:08:08 **Judge: Haynes, Lansing L.**
THE STATE WILL PRESENT EVIDENCE TO BURGLARY AND
ASSAULT - WHATEVER THE
13:08:31 FINDING IS - THEN WILL PUT ON EVIDENCE TO THE
ENHANCEMENT CHARGE -
13:08:55 WHAT RECORD WOULD YOU LIKE TO PUT ON THE RECORD

13:10:49 **State Attorney: Raap, Marty**
TRY COUNT 3 WITH COUNTS 1 & 2 - IT IS A MOTION
TO SEVERE - SHOULD COUNT 3 BE
13:11:19 SEVERED FROM COUNTS 1 & 2 - I HAVE NOT HAD MUCH
TO TO RESEARCH IT - CASE LAW
13:11:42 FOR SEVERENCE - IT HAS TO BE AN ISSUE RAISED BY
DEFENSE - I DID FIND A RECENT
13:11:59 CASE - IT IS A FEDERAL CASE FROM HERE IN
KOOTENAI - WE HAVE NOT BEEN ABLE TO
13:13:29 HAVE DISCUSSION IN THIS CASE - IT WAS BROUGHT UP
THIS MORNING - I WILL
13:13:45 STIPULATE TO THE FACT THAT HE WAS A CONVICTED
FELON - IF IT HAD BEEN
13:14:00 DISCUSSED- THIS IS THE APPROACH TO OUR CASE -
EITHER BY STIPULATION - OR
13:15:04 DEFENSE DID OBJECTION AND ALLOW PLAINTIFF TO PU
ON THERE CASE - POSSESSION OF
13:15:23 A FIREARM IS IDENTICAL SITUATION - DENY THE
MOTION TO SEVERE - LIMIT HOW FAR
13:15:41 YOU CAN GO ON THE FELONY - THAT IS THE STATES
ARGUMENT - EASIER THING TO DO
13:16:31 IS LIMIT IT AND PRESENT IT

13:16:41 **Public Defender: Chapman, Brad**
DEFENSE SUPPORTS THE COURTS DECISION - IT IS
INHERITANTLY PREJUDICIAL TO MY
13:17:18 CLIENT - TRYING COUNTS 3 ALONG WITH COUNTS 1 & 2
- WE DO THANK THE COURT TO
13:18:01 GIVE MY CLIENT A FAIR TRIAL - THERE IS NO
PREJUCIDE TO THE STATE IN THAT
13:18:22 REGARD

13:18:24 **Judge: Haynes, Lansing L.**

THE COURT HAD MADE UP ITS MIND - THAT IS HOW WE
ARE GOING TO PROCEED THAT WAY

13:18:44 - COUNT 3 IS NOT BEING SEVERED - THE COURT IS
EFFECTING THE MODE - ISSUE OF

13:19:06 JUDICIAL ECONOMY - THE OTHER ISSUE BEFORE THE
COURT - 404B EVIDENCE WAS FILED

13:19:33 ON FRIDAY - IT INCLUDED COUNT 4 - MALISCIOUS
INJURY - INCLUDE EVIDENCE THAT

13:20:11 HE POSSESSED THE GUN ABOUT A MONTH EARLIER - THE
STATE WILL BE ALLOWED TO

13:20:45 PRESENT THAT EVIDENCE - HE WAS ANGRY AT MS FERRA
FOR TURNING HIM IN FOR ON A

13:21:30 HIT AND RUN - HE CARVED INTO A DOOR OF THE HOUSE
AND POURED OIL ON A VEHICLE

13:21:52 - THAT IS THE MOTIVE OF THIS ACTION - ALLOW THE
EVIDENCE AS TO THE DEFENDANT

13:22:33 HAVING THE GUN A MONTH EARLIER

13:22:40 **Public Defender: Chapman, Brad**
I WAS ABLE TO LOCATE THE NOTICE TO USE
404BEVIDENCE - 07/09/10 @ 15:19 PM IT

13:23:05 WAS FAXED TO MY OFFICE - THAT IS A
MISREPRESENTATION TO THIS COURT - SHE

13:24:07 CALLED IT A REVOLVER IN THE TAPED INTERVIEW WITH
OFFICER GUNDERSON - THE

13:24:30 STATE TO CALL THAT THE SAME GUN - IT TOOK HOURS
OF LISTENING TO TAPE - IT IS

13:24:50 NOT THE GUN - UNCHARGED MISCONDUCT - LAST MINUTE
TO THE DEFENSE - THE COURT

13:25:30 HAS TO BELIEVE THE EVIDENCE - FIRST TIME THIS
MORNING IN CHAMBERS - MS FERRA

13:25:49 HAS A CHANGE OF HEART - IT IS MORE PROVIDET -
WHAT PART OF 404B EVIDENCE

13:27:10 WOULD ALLOW IT TO COME IN - IF THAT GUN EXISTED
- IT IS NOT HTE SAME GUN -

13:28:00 EXCLUDE THAT KIND OF EVIDENCE

13:28:12 **State Attorney: Raap, Marty**
READS A LINE FROM THE POLICE REPORT OUTLOUD -
SHE WILL THEN RECANT THAT IT

13:29:08 WAS THE SAME GUN - BUT I CAN EMPEACH HER - IT IS
NOT REALLY A 404B EVIDENCE

13:30:30 NOTICE - COUNT 3 IS SEVERED OUT -

13:31:33 **Judge: Haynes, Lansing L.**
DISCRETION OF THE COURT - ALLOW THE STATE

13:32:17 INTRODUCE THAT - IN REGARDS TO
MOTIVE/SNITCH - RELATIVE PROBITIVE VALUE - IT IS
NOT TO PROVE HIS CHARACTER -
13:33:48 BY THE TIME THAT THE JURY HEARS THAT - THEY WILL
NOT KNOW THAT IT WAS ILLEGAL
13:34:23 FOR HIM TO POSSESS THE GUN -
13:35:00 **Public Defender: Chapman, Brad**
THE COURT HAVING RULED - ASK A FOR A LIMITING
INSTRUCTION -
13:35:16 **Judge: Haynes, Lansing L.**
BRING TO COURT TOMORROW THE PROPOSED LIMITED
INSTRUCTION
13:35:33 **State Attorney: Raap, Marty**
NOTHING FURTHER
13:35:39 **Public Defender: Chapman, Brad**
NOT AT THIS TIME
13:35:49 THERE IS ANOTHER MATTER - MOVE TO EXCLUDE
WITNESSES?
13:36:03 **State Attorney: Raap, Marty**
NO OBJECTION
13:36:15 **Judge: Haynes, Lansing L.**
MUTUAL ORDER THAT ALL WITNESSES WILL LREMAIN
OUTSIDE
13:36:30 BRING IN THE JURY
13:36:35 JURY IS PRESENT AND IN THERE PROSPECTIVE SEATS
13:38:14 WE HAVE BEEN AT IT ARGUING LEGAL MATTERS - THANK
YOU FOR BEING PATIENT WITH
13:38:32 US
13:38:33 **State Attorney: Raap, Marty**
OPENING STATEMENT
13:38:40 **General:**
Time stamp
13:41:17 **Public Defender: Chapman, Brad**
OBJECTION
13:41:20 **Judge: Haynes, Lansing L.**
OVERRIDE

13:41:25 **State Attorney: Raap, Marty**
CONTINUES WITH OPENING

13:45:56 **Public Defender: Chapman, Brad**
OPENING STATEMENT

13:49:27 **State Attorney: Raap, Marty**
CALLS WITNESS

13:49:33 **Add Ins: CLERK**
SWEARS WITNESS

13:49:46 **Other: W - TRAVIS ESCUDERO**
MILLITARY VETERAN - 19 - 22 - I AM 23 YOA - ARMY
- SNIPER IN IRAQ FOR 16

13:51:07 MONTHS - I HAVE HAD WEAPON TRAINING - TRAINING,
SCHOOLING EXPERIENCE - I AM

13:51:44 ENGAGE WOT MARLISA GORDON - 911 SHASTA , POST
FALLS, KOOTENAI - WE RENT THE

13:52:11 HOUSE - THERE IS A 2 CAR GARGAE - ATTACHED - I
DO KNOW MELISSA FERRA -

13:52:41 MARLISA AND MELISSA ARE COUNSINS - I DO KNOW
DAVID CURRY - I MET HIM WHEN HE

13:53:05 WAS DATING MELISSA - I HAVE KNOWN HIM SINCE
AUGUST 2009 - WE DID NOT HAVE

13:53:37 PROBLEM WITH DAVID - DAVID AND MELISSA BROKE UP
- 02/20/10 I RECEIVED A PHONE

13:54:01 CALL FROM DAVID - IT WAS ABOUT 5:30 OR 6 PM - HE
CALLED MARLISA'S PHONE

13:54:26 **Public Defender: Chapman, Brad**
OBJECTION

13:54:30 **State Attorney: Raap, Marty**
I WILL LAY MORE FOUNDATION

13:54:39 **Judge: Haynes, Lansing L.**
ANSWER IS STRICKEN -

13:54:47 **State Attorney: Raap, Marty**
CONTINUES WITH DIRECT

13:54:56 **Other: W - TRAVIS ESCUDERO**
I HAVE SPOKEN TO DAVID ON THE PHONE PREVIOUSLY -
I KNEW THAT WAS HIM ON THE

13:55:13 PHONE

13:55:14 **Public Defender: Chapman, Brad**
OBJECT

13:55:18 **Judge: Haynes, Lansing L.**
OVERRULE

13:55:21 **State Attorney: Raap, Marty**
CONTINUES WITH DIRECT

13:55:28 **Other: W - TRAVIS ESCUDERO**
WE HAD ALL HUNG OUT - WE WERE ALL FRIENDS -
AFTER HIIM AND MELISSA BROKE UP

13:55:45 EVERYTHING WENT DOWN HILL - I HAD ANSWERED THE
PHONE AND DAVID SAID "I AM

13:56:08 COMING FOR YOU" - MARLISA AND MELISSA WERE
PRESENT - I TOLD MELISSA THAT

13:56:40 DAVID HAD CALLED - WHAT HE SAID WE WERE IN THE
BEDROOM BY THE GARAGE - 35

13:57:26 MINUTES LATER - MARLLISA AND I WERE SITTING IN
THE GARAGE - TWO CAR GARAGE -

13:57:53 W HAVE A COUCH AND COFFEE TABLE - WE SIT OUT
THERE TO SMOKE - THE COUCH IS

13:58:28 SITTING BY THE DOOR THAT WENT INTO THE HOUSE -
MARLISA INFORMED ME THAT

13:58:53 SOMEONE WAS WALKING UP THE DRIVEWAY - I DID NOT
KNOW WHO IT WAS - IT WAS

13:59:17 DAVID - HE KICKED THE TABLE AND I GOT UP AND
GRABBED A PIPE - DAVID HAD HIS

13:59:47 HANDS IN HIS POCKET - I DID NOT SEE THE PITSTOL
- I SAW A BUTT OF A GUN - I

14:00:08 TOLD MARLISA TO GET INSIDE - BLACK PIECE OF
PISTOL - NOT THE ENTIRE PIECE -

14:00:45 HIS HANDS WERE IN HIS POCKETS THE ENTIRE TIME HE
WAS IN THE GARAGE - I HAD

14:01:17 JUST STOOD UP AND I HAD THE POLE IN HAND - METAL
PIECE OF PICE - 1 1/2 2 FEET

14:01:45 AWAY FROM US - HE WAS MUTTERING - HE WAS UPSET
BECAUSE WE DID NOT HAVE THE

14:02:13 MONEY WE OWED HIM - CONSTANT BATTLE OF SCREAMS -
I CAN SEE WHAT GUNS CAN DO

14:02:38 TO PEOPLE - I DID NOT THINK THAT HE HAD
SOMETHING IN HIS POCKET THAT DID NOT

14:03:24 HARM ME - HE GAVE US ALL THE FINGER AND WALKED
AWAY - HE WAS SO UPSET OVER AT

14:03:55 OUR HOUSE - I DID NOT TALK TO HIM AFTER THIS -

14:04:51 **Public Defender: Chapman, Brad**
OBJECT

14:04:58 **Stop recording**
(Off Record)

14:05:14
Recording Started:

14:05:14 **Record**
CURRY, DAVID LOREN

14:05:19 **State Attorney: Raap, Marty**
CONTINUES WITH DIRECT

14:05:25 **Other: W - TRAVIS ESCUDERO**
HE HAD A BRONW CARHART JACKET - IT WAS A BIG ONE
-

14:05:56 **Public Defender: Chapman, Brad**
CROSS EXAM OF WITNESS

14:06:01 **Other: W - TRAVIS ESCUDERO**
TOWARDS THE END OF 2008 - I CAME BACK FROM IRAQ
- I DID SEE ACTUAL COMBAT -

14:07:10 I WOULD SAY SO - HIS HAND CAME OUT ABOUT AN INCH
- I THOUGHT IT WAS A PISTSOL

14:08:27 - BUT I DON'T KNOW FOOR SURE - I DON'T KNOW
WHAT KIND OF PISTOL - IT WA A

14:09:07 BLACK PEICE - I DID NOT SEE THE GUN - TO TELL
YOU WHAT KIND IT WAS - YES THAT

14:09:56 IS CORRECT - AFTER I PICKED UP THE POLE - I
DON'T KNOW - I WAS PUT IN A

14:11:21 UNPREDCIBLE SITUATION - AFTER HE LEFT WE CALLED
THE POLICE - I BELIEVE THAT

14:11:59 THERE WOULD HAVE BEEN FIGHT THAT NIGHT - IT
COULD HAVE BEEN ANYTHING - YES I

14:13:12 HAVE BEEN TRAINED IN THAT AREA - HE JUST THREW A
BAG OF CLOTHES AND WAS

14:13:56 SCREAMING -

14:14:24 **State Attorney: Raap, Marty**
REDIRECT OF WITNESS

14:14:31 **Other: W - TRAVIS ESCUDERO**
THREE MINUTES - TOWARDS THE END - RIGHT BEFORE

14:15:06 HE LEFT - EVERYTHING CAUGH ME
OF GUARD - WHEN THE TABLE WAS KICKED THAT IS
14:15:23 WEHN I GRABBED THE PIPE - THE
BAG OF CLOTHES GOT THROWN -

14:15:44 **Public Defender: Chapman, Brad**
RECROSS

14:15:48 **Other: W - TRAVIS ESCUDERO**
FIRST 2 MINUTES WAS SCREAMING AND YELLING - THEN
I FINALLY HAD ENOUGH AND
14:16:20 THAT IS WHEN DAVID SHOWED ME THE BUTT OF HIS GUN
AND I TOLD MARLISA TO GET
14:16:36 INTO THE HOUSE - I NEVER TURNED MY BACK ON HIM -
THEN DAVID WALKED AWAY

14:16:54 **Judge: Haynes, Lansing L.**
YOU ARE EXCUSED

14:16:58 **State Attorney: Raap, Marty**
CALLS WITNESS

14:17:02 **Add Ins: CLERK**
SWEARS WITNESS

14:17:38 **Other: W - MARLISA GORDON**
I AM CALLED MARLY - TRAVIS - HE IS MY FIANCE - I
HAVE KNOWN HIM ABOUT A YEAR
14:18:26 - I DO KNOW MELISSA FERRA - I HAVE KNOWN HER MY
WHOLE LIFE - SHE IS MY
14:18:47 COUSIN - I DO KNOW DAVID CURRY - HE WAS DATING
MY COUSIN - I HAD KNOWN HIM
14:19:14 ABOUT A YEAR AND A HALF - MELISSA WOULD JUST
COME OVER AND STAY THE NIGHT -
14:19:36 OUR KIDS ARE THE SAME AGE - COUPLE OF TIMES A
WEEK - I STILL LIVE AT THE SAME
14:19:52 ADDRESS AS I DID IN FEBRUARY - I RENT IT - 911
SHASTA, PF, IDAHO - KOOTENIA
14:20:26 COUNTY - 02/18/10 - I WAS AWARE OF AN ISSUE WITH
DAVID AND MELISSA - THERE
14:20:47 WAS CONFLICT AND SHE JUST SHOWED UP AT MY HOUSE
- SHE STAYED THE NIGHT - THE
14:21:05 NEXT MORNING THERE WAS SOMETHING WRONG - THE
WORD SNITCHED WAS WRITTEN ONT HE
14:21:23 DOOR - THE FRONT DOOR - BLACK SHARPIE - THERE
WAS THIS BLACK STUFF ON THE

14:21:44 HOOD OF MY CAR - I AM NOT SURE WHAT IT WAS - IT
WAS NOT THERE THE NIGHT
14:22:01 BEFORE - WE JUST WERE NOT TALKING - MELISSA,
TRAVIS AND DAVID - I DID REPORT
14:22:30 IT TO THE POLICE - I AM NOT SURE IF SHE TALKED
TO THE POLICE - A FEW DAYS
14:23:00 LATER WE DID HAVE TROUBLE WITH DAVID - TRAVIS
ANSWERED MY PHONE - I DO NOT
14:23:20 KNOW WHAT TIME IT WAS - IT WAS SIN THE EVENING -
IT WAS GETTING DARKER - HE
14:23:42 ANSWERED IT REAL FAST - HE HUNG UP AND SAID THAT
DAVID JUST CALLED -

14:24:04 **Public Defender: Chapman, Brad**
OBJECT

14:24:06 **State Attorney: Raap, Marty**
SHE IS PRESENT NAD CAN BE CROSSED

14:24:19 **Judge: Haynes, Lansing L.**
SUSTAIN

14:24:22 **State Attorney: Raap, Marty**
CONTINUES WITH DIRECT

14:24:31 **Public Defender: Chapman, Brad**
OBJECT

14:24:33 **Judge: Haynes, Lansing L.**
OVERRIDE

14:24:36 **State Attorney: Raap, Marty**
CONTINUES WITH DIRECT

14:24:42 ~~**Judge: Haynes, Lansing L.**~~ *Marlisa Gordon*
MELISSA LEFT MY HOUSE IN MY VAN TO GO AND GET A
SPARKS - I SAW DAVID - IT

14:25:09 WAS ABOUT 5 MINUTES LATER - TRAVIS AND I WOULD
SIT IN THE GARAGE AND SMOKE - I

14:25:33 WAS SITTING ON THE COUCH - TRAVIS WAS ON THE
PHONE - I SAW DAVID COME

14:26:05 WALKING REALLY FAST TO THE COURT - HE THREW THE
BAG OF CLOTHES ON THE FLOOR -

14:26:22 HE FREAKED OUT - HE THREW MELISSA'S CLOTHES AT
MY - HE WAS TALKING ABOUT THE

14:26:45 \$100 I OWE HIM - HE MADE GESTURES IN HIS POCKET

14:27:19 - HE KICKED A COFFEE TABLE -
IT DID SCARE ME - HE WAS JUST FREAKING OUT WITH
HIS HANDS IN POCKET - TRAVIS

14:27:45 DID PICK UP A PIPE - I WAS MAD, FREAKED OUT
BECAUSE I DID NOT WANT THE KIDS

14:28:17 TO COME OUT - ANGRY BECAUSE THEY ARE FIGHTING
AND I DID NOT WANT THIS BROUGHT

14:28:32 TO MY HOUSE - THEN I CALLED - I JUST REMEMBER
HIM WALKING OUT - I DID CALL

14:28:54 IMMEDIATELY AFTER HE LEFT - THIS WHOLE INCIDENT
TOOK ABOUT 5 MINUTE S- INSIDE

14:29:18 THE GARAGE -

14:29:35 **Public Defender: Chapman, Brad**
CROSS EXAM -

14:29:55 **Other: W - MARLISA GORDON**
I AM NOT SURE OF THE DATES - IT WAS IN FEBRUARY
- THE WEATHER WAS COLD - MOST

14:30:27 LIKELY - I WAS PROBABLY WEARING A SWEATER - I
DON'T KNOW HOW COLD - I NEVER

14:30:47 SAW A GUN - YES HE THREW THE BAG OF CLOTHES AND
SAID THEY WERE MELILSSA'S -

14:31:26 HE WAS UPSET ABOUT HTE \$100 WE OWED HIM

14:31:36 **Judge: Haynes, Lansing L.**
YOU MAY STEP DOWN AND YOU ARE EXCUSED

14:31:44 **State Attorney: Raap, Marty**
CALLS WITNESS

14:31:48 **Add Ins: CLERK**
SWEARS WITNESS

14:31:59 **Other: W - MELISSA FERRA**
I DO KNOW MARLISA GORDON - SHE IS MY COUSIN - I
HAVE KNOWN HER MY ENTIRE LIFE

14:32:58 - I DO KNOW TRAVIS ESCUDERO - ABOUT 1 YEAR - I
DO KNOW DAVID CURRY - HE WAS

14:33:17 MY BOYFRIEND - DATED FOR LITTLE OVER A YEAR - I
WOULD STAY THE NIGHT AT MY

14:33:45 MARLISA'S HOUSE PRETTY OFTEN - BECAUSE SHE WAS
MY COUSIN - MY CAR WAS

14:34:06 WRECKED- I SPOKE WITH THE POLICE - THEY FOUND MY
CAR ON THE CORNER OF HTE

14:34:23 ROAD - IT WAS IMPOUNDED D- THEY HAD A POLICE

14:34:48 HOLD ON IT - IT MIGHT HAVE BEEN
TE MIDDLE OF FEBRUARY - I TOLD THEM I THOUGHT HE
HAD BEEN DRIVING - THEY TOOK
14:35:26 THE HOLD OFF MY CAR - I WAS ABLE TO RECLAIM MY
CAR - NO ONE WAS CHARGED WITH
14:35:47 A CRIME - I SPENT HTE NIGHT AT MARLY'S THAT
NIGHT - THE WORD SNITCH WAS
14:36:09 WRITTEN ON THE DOOR AND OIL ONT HE MARLY'S HOOD
- IT WAS NOT THERE PRIOR TO
14:36:25 US GOING TO BED - I HAD AN IDEA THAT IT WAS FOR
ME - BUT I COULD NOT PROVE IT
14:36:45 - I WAS AT MARLY'S HOUSE WHEN DAVID CALLED
TRAVIS - I TOOK THERE VAN TO GET
14:37:17 CIGERETTES AND A SPARK - WHEN I CAME BACK THE
POLICE WERE THERE - I WAS OUT
14:37:40 OF CIGERETTES - I WAS GOING TO TALK TO DAVID -
BECAUSE WE HAD BROKE UP - NOT
14:38:23 REALLY - MARLY HAD REPORTED IT - NOT REALLY - I
REMEMBER TALKING TO HIM BUT I
14:38:47 DON'T REMEMBER THE CONVERSATION - JUST ABOUT HTE
INCIDENT -

14:39:04 **Public Defender: Chapman, Brad**
OBJECTION

14:39:07 **State Attorney: Raap, Marty**
IMPEACHING THIS WITNESS -

14:39:33 **Judge: Haynes, Lansing L.**
OVERRULED

14:39:42 **Stop recording**
(Off Record)

14:40:02
Recording Started:

14:40:02 **Record**
CURRY, DAVID LOREN

14:40:02 **Judge: Haynes, Lansing L.**
BACK ON THE RECORD

14:40:10 **State Attorney: Raap, Marty**
CONTINUES WITH DIRECT OF WITNESS

14:40:16 **Other: W - MELISSA FERRA**
I REMEMBER TELLING THEM THAT I THOUGHT DAVID HAD
DONE THAT - I WAS ON DRUGS

14:40:33 WHEN I SPOKE TO THE POLICE - I DO REMEMBER
TELLING THE POLICE THAT HE HAD A

14:41:06 WEAPON

14:41:09 **Public Defender: Chapman, Brad**
OBJECTION

14:41:11 **Judge: Haynes, Lansing L.**
EXCUSE THE JURY - SHORT BREAK

14:41:53 THE JURY IS OUT OF THE ROOM - OBJECTION IS THE
QUESTION TO THIS WITNESS -

14:42:06 THAT CALLS FOR HEARSAY

14:42:13 **Public Defender: Chapman, Brad**
YOU DID PARAPHRASE BOTH THE QUESTION AND THE
OBJECTION

14:42:24 **State Attorney: Raap, Marty**
I AM EMPEACHING MY WITNESS - SHE IS HOSTILE -
WHAT SHE SAYS TODAY SHE SAYS

14:42:43 SHE WAS ON DRUGS ON ALL OCCASIONS WITH THE POLICE
- I HAVE POLICE OFFICER

14:43:05 STATING THEY HEARD HER SAY THAT WAS THE GUN - IT
IS NOT HEARSAY - I HAVE TO

14:43:31 ASK HER AND GIVE HER THE OPPORTUNITY TO ANSWER
IT - I AM TRYING TO EMPEACH

14:44:01 HER - I HAVE TO GET INTO IT WITH HER TO EMPEACH
HER

14:44:17 **Public Defender: Chapman, Brad**
IT DOES CALL FOR HEARSAY - THERE IS NOTHING TO
EMPEACH - SHE DOES NOT

14:45:18 **General:**
Time stamp

14:45:21 **Judge: Haynes, Lansing L.**
THIS IS IMPROPER EMPEACHMENT AT THIS STAGE -
SUSTAIN THE OBJECTION

14:45:45 **State Attorney: Raap, Marty**
THE OFFICERS WILL COME IN AND SAY WHAT SHE SAID

14:46:02 **Judge: Haynes, Lansing L.**
PROBABLLY NOT - SHE JUST DOES NOT REMEMBER - FOR
THE OFFICERS SAY - IT DOES

14:46:22 EMPEACHMENT -

14:46:27 **State Attorney: Raap, Marty**
I AM CONFUSED -

14:46:37 **Judge: Haynes, Lansing L.**
I CANNOT SUGGEST IT TO YOU -

14:47:16 **State Attorney: Raap, Marty**
I AM HAPPY TO DO THE RIGHT HTING

14:47:23 **Judge: Haynes, Lansing L.**
I CANNOT CROSS THE LINE AND TELL YOU HOW TO
INTRODUCE YOUR EVIDENCE - ON THI

14:47:41 S RECORD - THE EMPEACHMENT RGHT NOW IS NOT
PROPER

14:48:03 **State Attorney: Raap, Marty**
RULE 607 - READS OUTLOUD -

14:48:34 **Public Defender: Chapman, Brad**
NO OBJECTION TO RECESS

14:48:39 **Judge: Haynes, Lansing L.**
BRING IN THEJURY

14:48:43 JURY IS PRESENT AND IN THERE PROPER SEATS

14:49:34 I AM GOING TO RELEASE YOU FOR THE AFTERNOON -
PLEASE BE HERE AT 8:30 AM - NO

14:49:57 NOT TALK ABOUT THIS CASE - YOU CAN TELL THEM
THAT YOU ARE A JUROR - JUST NOT

14:50:17 ABOUT THE CASE

14:51:01 THE JURY IS OUT OF THE COURTROOM -

14:51:09 WEHN I MADE THE COMMENT - YOU ARE AN EXPERIENCE
TRIAL LAWYER - IT DID NOT

14:51:35 MEAN TO SOUND OFFENSIVE

14:51:41 **State Attorney: Raap, Marty**
I DID NOT TAKE IT THAT WAY

14:51:51 **Judge: Haynes, Lansing L.**
YOU WILL HAVE A WRITTEN GUILTY PLEA TOMORROW IN
REGARDS TO COUNTS 4?

14:52:14 **Public Defender: Chapman, Brad**
YES

14:52:16 **Judge: Haynes, Lansing L.**
SEE YOU ALL BACK TOMORROW MORNING AT 8:30

14:52:30 **Stop recording**

Court Minutes:

Session: HAYNES071210A
Session Date: 07/12/2010
Judge: Haynes, Lansing L.
Reporter: Johnson, Laurie

Division: DIST
Session Time: 09:00

Courtroom: Courtroom9

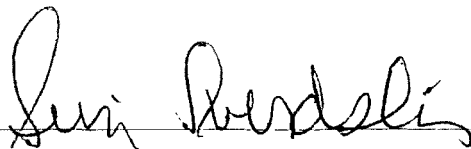
Clerk(s):
Jokela, Pam
Sverdsten, Suzi

State Attorney(s): Raap, Marty

Public Defender(s): Chapman, Brad

Prob. Officer(s):

Court interpreter(s):



Case ID: 0002

Case number: CR2010-3389

Plaintiff:

Plaintiff Attorney:

Defendant: CURRY, DAVID LOREN

Pers. Attorney:

Co-Defendant(s):

State Attorney: Raap, Marty

Public Defender: Chapman, Brad

Previous audio and annotations can be found in case: 0001

07/13/2010

08:45:46

Recording Started:

08:45:46

Case recalled

08:45:52

Judge: Haynes, Lansing L.
JURY TRIAL, DAY TWO.

08:47:09

Public Defender: Chapman, Brad

DEF WRITTEN PLEA ON COUNT IV SUBMITTED.

08:47:22 **Judge: Haynes, Lansing L.**
MALICIOUS INJ TO PROPERTY, MAX PENTALTIES,
RIGHTS.

08:47:34 **Defendant: CURRY, DAVID LOREN**
UNDERSTANDS.

08:48:47 GUILTY TO COUNT 4, MALICIOUS INJURY TO PROPERTY.

08:48:59 **Judge: Haynes, Lansing L.**
ACCEPTS GP.

08:50:58 **Public Defender: Chapman, Brad**
NOT RELEVANT.

08:51:11 **State Attorney: Raap, Marty**
IS RELEVANT. HAVE RIGHT TO PRESENT FACTS TO THE
JURY.

08:51:57 **Public Defender: Chapman, Brad**
IT WAS ALREADY BROUGHT UP, IT IS IN THE MINDS OF
THE JURY. I DON'T SEE ANY

08:52:57 POINT IN REINFORCING.

08:53:08 **Judge: Haynes, Lansing L.**
ABSENT A STIP, IT IS AN ESTABLISHED ACT.

08:53:45 **Public Defender: Chapman, Brad**
THE INTERVIEW WAS RIFE WITH UNCHARGED CONDUCT
AND INADMISSIBLE TOPICS OF

08:55:43 CONVERSATION. I WILL MOVE FOR A MISTRIAL IF WE
STRAY.

08:56:01 **Judge: Haynes, Lansing L.**
ALLOW THE STATE TO PRODUCE EVIDENCE THRU DET
GUNDERSON THAT DEF COMMITTED THE

08:56:19 2 ACTS OF WRITING SNITCH AND PUT OIL ON VAN.

08:57:31 MELISSA FERRA MAY TAKE THE STAND. BRING THE
JURY BACK.

08:58:50 JURY HAS RETURNED AND APPROPRIATELY SEATED. MS.
FERRA IS STILL UNDER OATH.

08:59:22 PA TO CONT.

08:59:28 **State Attorney: Raap, Marty**
DIRECT EXAM

08:59:44 **Other: FERRA, MELISSA**
DATING HIM. SEXUAL RELATIONSHIP. NOT LIVING
WITH HIM. NEVER SAW HIM WITH
09:01:23 GUN, NEVER HEARD HIM TALK ABOUT A GUN. HE LIVED
IN POST FALLS. HE LIVED
09:01:39 WITH HIS FAMILY. TALKED TO THE POLICE ABOUT THE
GARFETTI ON THE HOUSE.

09:03:56 **Public Defender: Chapman, Brad**
OBJ.

09:03:59 **Judge: Haynes, Lansing L.**
OVERRULE.

09:04:04 **Other: FERRA, MELISSA**
NOW THAT I THINK ABOUT IT, I DON'T REMEMBER THAT
CONVERSATION, I WAS HIGH ON
09:04:20 DRUGS, I WAS IN LOVE WITH DAVID.

09:05:04 **Public Defender: Chapman, Brad**
OBJ

09:05:06 **Judge: Haynes, Lansing L.**
OVERRULE.

09:05:10 **Other: FERRA, MELISSA**
POSSIBLE I SAID A LOT OF THINGS. I DON'T KNOW
WHY I LIED.

09:07:48 **Public Defender: Chapman, Brad**
OBJ

09:07:51 **Judge: Haynes, Lansing L.**
SUSTAINS, IMPROPER IMPEACHMENT.

09:08:01 **Other: FERRA, MELISSA**
2/20/10 STILL IN LOVE WITH DAVID. I REMEMBER
TAKING TO THE POLICE AND I WAS
09:08:59 VERY UPSET BECAUSE I WAS IN LOVE WITH DAVID. I
WAS UPSET AND THERE WAS A
09:09:54 LONG PERIOD IN MY LIFE THAT I WAS ON DRUGS. FOR
LIKE 4 MONTHS I DON'T
09:10:12 REMEMBER WHAT I DID.

09:10:18 **Public Defender: Chapman, Brad**
OBJ

09:10:20 **Judge: Haynes, Lansing L.**
OVERRIDE.

09:10:24 **Other: FERRA, MELISSA**
I STILL LOVE HIM, BUT DOING DIFFERENT THINGS IN
MY LIFE AND TRYING TO MOVE
09:10:41 ON.

09:10:44 **Public Defender: Chapman, Brad**
I DON'T HAVE ANY QUESTIONS.

09:11:32 **State Attorney: Raap, Marty**
CALLS

09:11:36 **Public Defender: Chapman, Brad**
MAY WE APPROACH?

09:11:49 **Judge: Haynes, Lansing L.**
YOU MAY.

09:13:37 **Other: CLERK**
SWEARS

09:13:48 **Other: BEAUCHAMP, LORA**
DEF IS MY SON. DOB [REDACTED] 801 E GLACIER
PEACK DR., POST FALLS. FEB 2010,
09:14:36 MY PARENTS, AND MY SONS LIVED WITH ME. GUN WAS
IN THE HOUSE. LITTLE
09:16:38 OVER 9 YRS. DAD WAS GETTING DEMENTIA. I TOOK IT
AWAY AND PUT IT IN A TAX BOX
09:17:26 IN MY CLOSET. I WORK AT DEACONESS IN SPOKANE.
2/10, JAMES CALLED ME AND
09:18:20 TOLD ME THAT SOMETHING WAS GOING DOWN AND I NEED
TO COME HOME. HE SAID THERE
09:18:38 WAS A LOT OF POLICE THERE GOING THRU EVERYTHING.
I GOT HOME ANDN ASKED MY
09:18:57 SON WHAT THE DEAL WAS. JAMES TOLD ME DET.
GUNDERSON WAS THERE, SO I CALLED
09:19:28 HIS OFFICE. I TOLD HIM I HAD A GUN AND HE SAID
HE WOULD MET ME AT MY HOUSE.
09:20:19 BOX WAS IN BACK OF THE CLOSET. ALL MY TAX
PAPERS WERE IN IT. IT WAS UNDER
09:22:19 THE PAPERS. GUN WAS UNLOADED. CLIP WAS THERE.
IT HAS BULLETS IN THE CLIP.
09:22:38 DET. TOOK A PICTURE OF IT, HE TOOK IT AND SAID
HE WOULD GET BACK TO ME.

09:25:06 09-10 DAVID HAD BEEN LIVING WITH ME.

09:25:13 **Public Defender: Chapman, Brad**
CX

09:25:17 **Other: BEAUCHAMP, LORA**
I TOLD HIM I'D LEAVE THE GUN WHERE IT WAS UNTIL
I GOT THERE. IT WAS A BOX

09:25:51 WITH A LID THAT YOU GET COMPUTER PAPER IN. IT
WAS PROBABLY 1/2 FULL WITH

09:26:16 PAPERS. ALWAYS GETTING THE THAT BOX. NO
INDICATION THAT GUN WAS EVER

09:26:58 MOVED. TOP OF BOX WAS PRETTY DUSTY.

09:28:24 **State Attorney: Raap, Marty**
CALLS

09:28:29 **Other: CLERK**
SWEARS

09:28:39 **Other: CURRY, JAMES**
DEF IS MY BROTHER. 2/10 I WAS LIVING AT MY
MOTHER'S HOUSE IN POST FALLS,

09:29:55 WITH MY MOTHER, STEP-FATHER, GRANDMOTHER,
BROTHER. POLICE CAME TO SERVE A

09:30:56 SEARCH WARRANT, I WORK NIGHTS, THEY CAME IN AND
TOOK US UPSTAIRS, SAT IN ROOM

09:31:13 WITH GRANDMOTHER AND BROTHER.

09:33:19 **Public Defender: Chapman, Brad**
OBJ

09:33:21 **Judge: Haynes, Lansing L.**
JURY OUT.

09:34:09 **Public Defender: Chapman, Brad**
WHAT HAS HAPPENED IS 609 IMPEACHMENT WITHOUT
WHAT NEEDS TO BE DONE. WITHOUT

09:34:49 FOLLOWING THE PROPER PROCEDURE. PROSECUTORIAL
MISCONDUCT.

09:36:58 **State Attorney: Raap, Marty**
HE SAID IT WAS A RULE OF HIS PROBATION. I'M NOT
ATTACKING HIS CREDIBILITY.

09:37:17 I WOULD ARGUE THAT HE IS CREDIBLE. WE DON'T
HAVE TO MENTION HIS

09:37:32 **General:**
Time stamp

09:37:37 **State Attorney: Raap, Marty**
PRIOR CONVICTION.

09:40:16 **Judge: Haynes, Lansing L.**
HAVING TROUBLE UNDERSTANDING IN ISSUE OF WHETHER
MR CURRY COMMITTED BURGLARY
09:40:59 OF AGG ASSAULT. THIS WITNESS STATES HE DIDN'T
KNOW OF GUN. STATEMENTS TO MR
09:41:26 LEMA HERESAY.

09:42:08 **State Attorney: Raap, Marty**
DAVID ADMITTED TO HIM HE WROTE SNITCH AND USED
THE OIL AND HEARD DAVID
09:42:28 TALKING ON THE PHONE TO A FRIEND ABOUT THE GUN.
AS FAR AS HIM BEING ON PROB,
09:42:52 I COULD ASK ABOUT HIS BROTHER AND IF HE KNOW OF
THINGS ADMITTED TO HIM AND
09:43:07 LEAVE MR LEMA OUT OF IT.

09:44:07 **Judge: Haynes, Lansing L.**
SUST OBJ THAT THIS WITNESS WAS ON PROB. ANY
ADMISSIONS BY THE DEF AS TO
09:44:22 POSSESSING THE GUN TO THIS WITNESS WOULD BE
RELEVENT.

09:44:54 **Public Defender: Chapman, Brad**
I OBJECT REGARDING RELATIONSHIP WITH MS FERRA
AND DEF. THAT WITNESS WAS
09:45:18 TALKING ABOUT INGESTION OF DRUGS. UNFAIR
DISPERTION ON MY CLIENT.

09:46:18 **Judge: Haynes, Lansing L.**
BRING THE JURY BACK.
09:47:30 JURY IS SEATED. COURT IS RULING THAT ANY
TESTIMONY OF THIS WITNESS ABOUT
09:47:44 BEING ON PROB IS SUSTAINED.

09:48:06 **Other: CURRY, JAMES**
THE DAY BEFORE, HE HAD TOLD ME ABOUT IT. THAT
HE HAD DONE THOSE THINGS.

09:49:21 **Judge: Haynes, Lansing L.**
YOU CAN CONSIDER THAT THE ADMISSION THAT DEF MR

09:49:40 CURRY ADMITTED THE ACT OF
WRITING SNITCH AND POORING THE OIL AS MOTIVE.

09:50:19 **Other: CURRY, JAMES**
WE DON'T TALK A LOT. HE WAS ON THE TELEPHONE,
09:51:36 ABOUT 12:45. I HEARD THOSE
WORDS AND IT CAUGHT MY EAR.

09:52:42 **State Attorney: Raap, Marty**
ASK TO APPROACH THE BENCH.

09:52:49 **Judge: Haynes, Lansing L.**
COME ON UP.

09:53:34 **Other: CURRY, JAMES**
RECALL SPEAKING TO JERRY LEMA. DON'T RECALL
TALKING ABOUT THE GUN. I HEARD
09:54:03 THE WORD GUN WHEN HE WAS ON THE PHONE, I DIDN'T
PAY MUCH ATTENTION TO THE
09:54:19 REST OF THE CONVERSATION.

09:54:29 **Public Defender: Chapman, Brad**
ASK TO APPROACH

09:54:39 **Judge: Haynes, Lansing L.**
YOU MAY.

09:54:51 **Other: CURRY, JAMES**
CLOSE TO MY BROTHER, LOVE MY BROTHER.

09:55:17 **Public Defender: Chapman, Brad**
CX

09:56:20 **Other: CURRY, JAMES**
DON'T RECALL.

09:56:31 **Judge: Haynes, Lansing L.**
15 MIN. BREAK. ADMONISHES JURORS.
09:57:24 IT APPEARS PA WILL CALL MR LEMA, COURT DOESN'T
WANT HIM TO APPEAR IN PAROLE
09:57:55 UNIFORM.

09:58:34 **Public Defender: Chapman, Brad**
MOVES FOR A MISTRIAL. COUNSEL ASKED JAMES
CURRY, DO YOU RECALL TALKING TO
09:59:14 ME? THAT MAKES PA A WITNESS IN THIS CASE.

10:00:35 **Judge: Haynes, Lansing L.**
DENIES MTN FOR MISTRIAL. QUESTIONS OF LAWYER
ARE NOT EVIDENCE.

10:01:38 RECESS.

10:01:51 **Stop recording**
(On Recess)

10:18:52
Recording Started:

10:18:52 **Record**
CURRY, DAVID LOREN

10:21:35 **State Attorney: Raap, Marty**
CALLS

10:21:39 **Other: CLERK**
SWEARS

10:22:06 **Other: CHAPMAN, BRETT**
SR. PATROL OFFICER WITH CITY OF POST FALLS. 16
YRS. POST CERT. 2/20/10,

10:22:34 CALL TO 911 SHASTA, 5:59 P.M. I RESPONDED TO
THAT LOCATION ON A CALL OF AN

10:23:03 UNWANTED SUBJECT. SPOKE WITH MELISSA FERRA.

10:23:19 **Public Defender: Chapman, Brad**
OBJ, HERESAY.

10:23:23 **Judge: Haynes, Lansing L.**
GET TO SUBJ MATTER.

10:23:29 **Other: CHAPMAN, BRETT**
SHE SAID SHE HAD SEEN DAVID WITH GUN ON PRIOR
OCCASSIONS.

10:25:23 **Judge: Haynes, Lansing L.**
CREDIBILITY AND WEIGHT THAT YOU GIVE TESTIMONY.

10:25:55 **Other: CHAPMAN, BRETT**
I'VE ATTENDED 2 DUI CLASSES, DRUG TRAINING,
RECOGNIZTION. HAD NUMEROUS

10:26:25 EXPERIENCES OF PEOPLE UNDER INFLUENCE. SHE WAS
EXCITED APPEARED FEARFUL,

10:27:01 BUT LUCID.

10:27:10 **Judge: Haynes, Lansing L.**
STIRKE FEARFUL PORTION OF ANSWER.

10:27:22 **Other: CHAPMAN, BRETT**
SHE DIDN'T APPEAR TO BE UNDER THE INFLUENCE.

10:28:23 **Public Defender: Chapman, Brad**
CX.

10:28:26 **Other: CHAPMAN, BRETT**
DIDN'T GIVE HER A BLOOD TEST OR URINE TEST.

10:28:57 **State Attorney: Raap, Marty**
REDIRECT.

10:29:01 **Other: CHAPMAN, BRETT**
NO NEED TO GIVE HER TESTS.

10:29:11 **State Attorney: Raap, Marty**
CALLS.

10:29:17 **Other: CLERK**
SWEARS

10:29:29 **Other: GUNDERSON, ROD**
DETECTIVE FOR THE POST FALLS POLICE DEPT, SINCE
1988. POST CERT. 2/19/10

10:30:33 CALLED TO 911 SHASTA, I WAS ASSIGNED A CASE TO
FOLLOW UP ON. I WAS SPEAKING

10:31:56 TO MELISSA FERRA AND SHE SAID DEF HAD PITOLL 30
DAYS PRIORS. SHE INDICATED

10:32:18 SHE WAS AT HIS HOUSE, IN THE BASEMENT, ANOTHER
PERSON WAS PRESENT. SHE SAID

10:32:33 THAT DAVID LEFT BASEMENT AND RETURNED BACK WITH
THIS PISTOL AND SHOWING IT

10:32:57 OFF SAID IT WAS HIS GRANDFATHER'S PISTOL.
2/23/10, WE SERVED S/W AT 801

10:34:14 GLACIER PEAK, BASED ON STATEMENT THAT THERE WAS
A GUN IN THE HOUSE.

10:34:49 INVESTIGATING DAVID CURRY, IT WAS HIS RESIDENCE.

10:36:29 FOUND AMMO. IN DIFFERENT AREAS OF THE HOUSE.
HE ADMITTED IT WAS HIM WHO

10:37:41 WROTE THE WORD SNITCH ON THE DOOR AND DUMPED OIL
ON THE VICTIMS CAR. HE TOLD

10:40:29 ME THAT HIS GRANDFATHER HAD A PISTOL.

10:42:21 **State Attorney: Raap, Marty**
MARKS EX 1.

10:42:26 **Other: GUNDERSON, ROD**
IDENTIFIES EX 1. I RECOVERED THE GUN.

10:45:47 **Public Defender: Chapman, Brad**
OBJ

10:45:49 **Judge: Haynes, Lansing L.**
OVERRULE.

10:45:53 **Other: GUNDERSON, ROD**
WASN'T SURE I'D BE ABLE TO LIFT PRINTS. ITEMS
ARE IN EX 1, PISTOL, HOLSTER,
10:47:37 AMMO,

10:48:13 **State Attorney: Raap, Marty**
MOVES TO ADMIT STATE'S 1.

10:48:21 **Public Defender: Chapman, Brad**
OBJ. INQUIRE IN AIDE.

10:48:44 **Other: GUNDERSON, ROD**
MELISSA'S DESCRIPTION, IT WAS LIKELY A REVOLVER.

10:50:53 **Judge: Haynes, Lansing L.**
OVERRULE, EX 1 IS ADMITTED.

10:53:13 **Other: GUNDERSON, ROD**
SHE WAS UPSET, SHE SAID THAT WAS THE GUN, SHE
STARTED CRYING.

10:55:17 **Public Defender: Chapman, Brad**
CX

10:55:21 **Other: GUNDERSON, ROD**
7 1/2 YRS ASSIGNED TO DET. DIVISION. POST CERT
EXPLAINED. MRS. BEAUCHAMP
10:59:06 TOOK ME TO THE BOX. I HAD A CAMERA. TOOK A
PICTURE OF THE GUN AFTER I PUT
10:59:48 IT ON THE BED. DIDN'T HAVE GUN TESTED IN
MERIDIAN.

11:03:44 I PERSONALLY REMOVED ITEMS FROM THE HOUSE. I
SHOWED MELISSA THE GUN. RIFLE
11:08:54 ROUND. CLIP WAS IN WEAPON WHEN I TOOK IT FROM.

11:09:44 THE BOX. POSSIBLE TO LEAVE
FINGER PRINTS ON PAPER.

11:11:27 **Public Defender: Chapman, Brad**
ASK TO APPROACH.

11:11:33 **Judge: Haynes, Lansing L.**
YOU MAY.

11:12:07 10 MIN. RECESS. ADMONISHES THE JURORS.

11:13:09 SECURITY OFFICERS WILL CHECK EXHIBIT DURING THIS
RECESS.

11:13:27 **Stop recording**
(On Recess)

11:29:07
Recording Started:

11:29:07 **Record**
CURRY, DAVID LOREN

11:30:08 **Public Defender: Chapman, Brad**
WANT TO PLAY TAPE.

11:31:08 **State Attorney: Raap, Marty**
OBJ.

11:31:11 **Judge: Haynes, Lansing L.**
EX WOULD NEED TO BE MARKED AND ADMITTED. COURT
WOULD ADMIT ONLY LIMITED
11:31:28 PORTION.

11:32:14 **Public Defender: Chapman, Brad**
IT IS TRACK 2, 35 SEC. MARK. WE END AT 109.

11:33:26 **Judge: Haynes, Lansing L.**
NOT SEEING THAT THIS IMPEACHES WITNESSES
TESTIMONY.

11:34:43 **Public Defender: Chapman, Brad**
ARGUES.

11:34:45 **Judge: Haynes, Lansing L.**
MORE CONFUSING THAN HELPFUL.

11:34:59 EX 1 NOT IN A FORM THAT SECURITY OFFICERS THINK
IS APPROPRIATE. DURING

11:35:16 RECESS ALLOW YOU TO WORK WITH SECURITY OFFICERS
TO MAKE SAFE.

11:38:37 **State Attorney: Raap, Marty**
LIKE TO FORGE A HEAD WITH CASE TODAY.

11:40:33 **Judge: Haynes, Lansing L.**
WILL BRING JURY BACK IN AND EXCUSE THEM FOR THE
DAY. JURY THE JUROR.

11:42:23 JURY IS SEATED. DEF WAS DONE WITH CX OF DET.
GUNDERSON AND NO REDIRECT, SO

11:42:41 HE IS EXCUSED. WILL EXCUSE YOU TODAY AND BRING
YOU BACK AT 8:30.

11:43:21 ADMONISHES JURORS.

11:44:09 BETWEEN NOW AND LUNCH HOUR SECURITY TO TAKE
EXHIBIT, WOULD LIKE COUNSEL TO

11:44:45 BOTH BE WITH SECURITY OFFICER. COUNSEL TO MEET
IN CHAMBERS AT 1:15 FOR JURY

11:45:04 INST. CONFERENCE.

11:45:11 **Stop recording**

Court Minutes:

Session: HAYNES071210A
Session Date: 07/12/2010
Judge: Haynes, Lansing L.
Reporter: Johnson, Laurie

Division: DIST
Session Time: 09:00

Courtroom: Courtroom9

Clerk(s):
Jokela, Pam
Sverdsten, Suzi

State Attorney(s): Raap, Marty

Public Defender(s): Chapman, Brad

Prob. Officer(s):

Court interpreter(s):

Suzi Sverdsten

Case ID: 0003

Case number: CR2010-3389

Plaintiff:

Plaintiff Attorney:

Defendant: CURRY, DAVID LOREN

Pers. Attorney:

Co-Defendant(s):

State Attorney: Raap, Marty

Public Defender: Chapman, Brad

Previous audio and annotations can be found in case: 0002

07/14/2010

08:26:29

Recording Started:

08:26:29

Case recalled

08:26:35

Judge: Haynes, Lansing L.

JURY TRIAL, DAY THREE, DEF IS NOT PRESENT AND

JURY IS NOT PRESENT. JURY

08:26:53

INSTRUCTION CONFERENCE.

08:27:40 **State Attorney: Raap, Marty**
VITAL TO GET A FAIR TRIAL. OBJ TO THE IDEA THAT
WE ARE DOING CT 3

08:28:32 SEPARATELY. 2ND, I HAVE TO PROVE THAT HE HAS A
GUN, AND I THINK IT IS THE

08:28:46 FEAR OF THE GUN HE HAD TO PROVE, NOT WHETHER HE
HAD A GUN. INST NOT IN IJIE

08:29:17 FORMAT.

08:31:35 **Public Defender: Chapman, Brad**
THE MAY POINTS I'D LIKE TO MAKE, WE DISCUSSED IN
CHAMBERS, I PROFERRED INST

08:32:15 ON UNLAWFUL ENTRY AS LESSER AND DTP AS A LESSER
INCLUDED FOR AGG ASSAULT.

08:33:13 I'D LIKE TO INSTRUCT THE JURY OF SELF DEFENSE.

08:36:00 **Judge: Haynes, Lansing L.**
WITH RE: TO LESSER OF UNLAWFUL ENTRY, COURT
REJECTS, THE OFFENSE HAS A

08:36:23 PARTICULAR ELEMENT THAT ENTRY MADE WITHOUT
PERMISSION OF OWNERS. ALSO, STATE

08:36:40 DID NOT PLEAD THAT MR CURRY ENTERED GARAGE
WITHOUT PERMISSION. AND DTP HAS

08:37:01 MALICE TO IT, ONE DOES NOT NEED TO PROVE MALICE
FOR AGG ASSAULT.

08:37:38 DEF HAS NEVER PROFERRED ANY JURY INST. ON SELF
DEFENSE.

08:46:23 COURT BELIEVES THAT A CURATIVE INST NOT
SUFFICIENT. I NOTE THE STATE'S

08:46:57 OBJECTIONS.

08:47:16 **Public Defender: Chapman, Brad**

08:48:37 **Judge: Haynes, Lansing L.**
I WILL REFASHION THE VERDICT FORM. MR
PENNINGTON TO REWORK THE VERDICT FORM.

08:53:35 **Public Defender: Chapman, Brad**
MOVES FOR ACQUITTAL. CLIENT IS CHARGED WITH
ENTERING AN OPEN GARAGE WITH IN

08:54:20 TENT. THE WITNESS INTIMIDATION, THERE IS NO
EVIDENCE THAT THERE WAS A

08:54:38 CRIMINAL PROCEEDING, NO INFERENCE CAN BE DRAWN
FOR THE RECORD THAT DEF

08:54:57 INTENDED TO INTIMIDATE. AS THE MOTIVE FOR

BURGLARY AGG ASSAULT, DEF ENTERS
08:57:34 THE GARAGE, THERE IS NO DISPLAY OF ANYTHING. WE
HAVE TO LOOK INSIDE HIS HEAD
08:57:50 AND INFER MOTIVE. MR ESCUDERO ASSUMED, WE CAN
NOT ASK THIS JURY TO ASSUME.

09:05:24 **State Attorney: Raap, Marty**
MR ESCUDERO SAID HE SAW A GUN, NOT THAT HE
ASSUMED IT WAS A GUN.

09:06:49 **Public Defender: Chapman, Brad**
MY RECOLLECTION IS THAT HE SAID HE ASSUMED IT
WAS A GUN NOT THAT HE SAW IT
09:07:06 WAS

09:07:07 **Judge: Haynes, Lansing L.**
ANALYSIS FOR JUDGMENT OF ACQUITTAL. RULE 29.
THERE IS EVIDENCE WHICH A
09:07:42 REASONABLE JUROR COULD INFER DEF ENTERED GARAGE
INTENDING TO INTIMIDATE MS
09:08:00 FERRA. JURY COULD INFER THAT HE INTENDED TO
COMMIT AGG ASSAULT, HE KEPT HIS
09:08:49 HAND IN POCKET WITH METALIC PIECE. JURY COULD
INFER THAT OBJ WAS A HANDGUN.
09:09:23 MR ESCUDERO SAID HE BELIEVE IT WAS A HANDGUN,
NOT THAT HE SAW IT.

09:10:53 **Public Defender: Chapman, Brad**
WOULD BE MISCONDUCT FOR PA TO MENTION MS FERRA
SEEING A FIREARM 30 DAYS B 4
09:11:16 THIS INCIDENT.

09:11:30 **Judge: Haynes, Lansing L.**
COURT WILL RULE IF OBJECTIONS MADE.

09:12:18 **Stop recording**
(On Recess)

09:32:38 Recording Started:

09:32:38 **Record**
CURRY, DAVID LOREN

09:32:48 **Judge: Haynes, Lansing L.**
COURT HAS GIVEN TO COUNSEL 1-28 INSTRUCTIONS.

09:33:43 COURT WILL ALLOW PA TO DISPLA
Y EXHIBITS 1A AND 1B.

09:34:16 **Public Defender: Chapman, Brad**
AT THIS POINT, I HAVE DISCUSSED WITH CLIENT TO
HAVE JURY MAKE DETERMINATION
09:34:31 OF PRIOR CONVICTIONS AND HE WILL WAIVE JURY ON
THAT.

09:35:17 **Judge: Haynes, Lansing L.**
RIGHTS GIVEN TO DEF RE: THE RIGHT TO HAVE A JURY
MAKE THE DECISION OR THE
09:35:32 COURT MAKE THE DECISION.

09:35:39 **Defendant: CURRY, DAVID LOREN**
UNDERSTANDS. WAIVES JURY TO MAKE DETERMINATION
OF PRIOR CONVICTIONS.

09:36:05 **Public Defender: Chapman, Brad**
OBJ TO PRESENTATION OF EXHIBITS.

09:37:39 **Judge: Haynes, Lansing L.**
JURY HAS RETURNED AND SEATED.

09:38:27 **State Attorney: Raap, Marty**
MOVES TO PUBLISH 1A AND 1B.

09:41:40 **Judge: Haynes, Lansing L.**
GRANTS.

09:41:47 **State Attorney: Raap, Marty**
STATES RESTS.

09:41:52 **Public Defender: Chapman, Brad**
DEFENSE RESTS.

09:41:58 **Judge: Haynes, Lansing L.**
1-8 JURY INSTRUCTIONS HAVE ALREADY BEEN READ.
09:42:12 READS CLOSING INSTRUCTIONS 9-28.

09:56:22 **State Attorney: Raap, Marty**
CLOSING ARGUMENT GIVEN.

10:27:35 **Public Defender: Chapman, Brad**
CLOSING ARGUMENT GIVEN.

10:55:54 **State Attorney: Raap, Marty**
REBUTTAL ARGUMENT GIVEN.

11:00:57 **Public Defender: Chapman, Brad**
OBJ

11:01:03 **Judge: Haynes, Lansing L.**
OVERRIDE

11:01:07 **State Attorney: Raap, Marty**
CONTINUES REBUTTAL ARGUMENT.

11:06:45 **Other: CLERK**
BAILIFF'S OATH FOR DELIVERATION GIVEN.
ALTERNATE JUROR CHOSEN.

11:07:09 **Judge: Haynes, Lansing L.**
EXCUSES ALTERNATE JUROR. EXCUSES JURY FOR
DELIBERATION.

11:09:32 **Public Defender: Chapman, Brad**
WE DO NOT CONCEDE ANYTHING OTHER THAN HE HAS
PRIOR FELONY CONVICTIONS THAT

11:09:48 PROHIBIT HIM FOR HAVING A FIREARM. I MAKE NO
OTHER CONCESSIONS. WE DO NOT

11:10:20 AGREE THAT ANY OF THE OTHER ELEMENTS ARE MET.

11:11:32 **Stop recording**
(On Recess)

13:21:38
Recording Started:

13:21:38 **Record**
CURRY, DAVID LOREN

13:21:40 **Judge: Haynes, Lansing L.**
JURY QUESTION, DEF IS NOT PRESENT.

13:21:55 **Public Defender: Chapman, Brad**
READY TO PROCEED.

13:22:01 **Judge: Haynes, Lansing L.**
READS JURY QUESTION. COURT'S INTENTION IS TO
BRING THE JURY BACK AND SAY NO

13:22:25 FURTHER DEFINATIONS CAN BE GIVEN. IMPROPER FOR

COURT TO COMMENT.

13:22:50 **Public Defender: Chapman, Brad**
THINK YOU CAN JUST DO THAT IN WRITING.

13:23:01 **Judge: Haynes, Lansing L.**
I'D PREFER TO BRING JURY IN.

13:23:10 **Public Defender: Chapman, Brad**
LIKE CLIENT HERE THEN.

13:23:17 **Judge: Haynes, Lansing L.**
LETS BRING MR CURRY IN.

13:26:27 DEF IS PRESENT.

13:26:38 JURY IS SEATED. READS QUESTIONS.

13:26:50 COURT CAN GIVE NO FURTHER EXPLAIN BEYOND THE
EXPLANATION WHICH IS IN #14.

13:27:31 JURORS JOB TO READ #14 AND MAKE BEST
UNDERSTANDING COLLECTIVELY AND APPLY

13:27:48 FACTS OF THE LAW. JURY BACK IN DELIBERATIONS.

13:28:38 **Stop recording**

15:36:33

Recording Started:

15:36:33 **Record**
CURRY, DAVID LOREN

15:36:52 **Judge: Haynes, Lansing L.**
BAILIFFS HAS ADVISED THAT JURY HAS REACHED A
VERDICT. DEF IS PRESENT.

15:38:22 JURY IS SEATED.

15:38:42 REVIEWS VERDICT.

15:38:49 READS VERDICT. GUILTY TO BURGLARY. GUILTY TO
AGGRAVATED ASSAULT.

15:39:33 **Public Defender: Chapman, Brad**
ASKS THAT JURY IS POLLED.

15:40:16 **Other: CLERK**
POLLS THE JURY.

15:40:40 **Judge: Haynes, Lansing L.**
JURY IS EXCUSED FOR A MOMENT.

15:42:27 **Public Defender: Chapman, Brad**
WE DO NOT CONCEED BASED ON EVIDENCE THAT JURY
HAS REACHED A VERDICT BASED ON
15:42:44 THE EVIDENCE. WE AGREE THAT THE JURY HAS FOUND
THE ELEMENTS, STIP TO
15:43:20 PREDICATE FELONIES.

15:43:25 **Judge: Haynes, Lansing L.**
BRING THE JURY BACK IN TO DISCHARGE. DO YOU
WISH TO GO FORWARD TODAY OR
15:43:51 ANOTHER DAY?

15:43:54 **Public Defender: Chapman, Brad**
ANOTHER DAY. THIS IS GOING TOO FAST, LIKE TO
CONSULT WITH CLIENT.

15:44:33 **State Attorney: Raap, Marty**
GUESS WE STIP TO FINDING OF GUILTY AS TO COUNT
3. TAKE AS BEING A GUILTY
15:44:51 DETERMINATION ON CT 3. STIP ON HABITUAL
OFFENDER. PREFER TO FINISH TODAY.

15:45:53 **Judge: Haynes, Lansing L.**
JURY HAS FOUND 3 OF THE 4 ELEMENTS OF COUNT 3.

15:46:25 **State Attorney: Raap, Marty**
TOOK IT TO BE THAT DA WILL STIP THAT HE IS
GENERALLY A FELON AND SUBJECT TO
15:46:41 FELON WITH WEAPON.

15:46:49 **Public Defender: Chapman, Brad**
MY UNDERSTANDS IS WE AFFIRMATIVELY WAIVED JURY
TO DETERMINE REMAINING
15:47:05 ISSUES. PREDICATE FELONNY AND THE HABITUAL AND
OFFENDER ENHANCEMENT.

15:47:59 **Judge: Haynes, Lansing L.**
I WILL DISCHARGE THE JURY AND PASS THE CURRY
MATTER UNTIL END OF THE DAY AND
15:48:11 OUR CIVIL MATTERS OF LAW DAY. NST 4:30. BRING
THE JURY BACK IN.

15:49:00 JURY IS SEATED. JURORS ARE DISCHARGED. THANKS
JURORS AND EXCUSES THEM.

15:51:47 **Stop recording**

Court Minutes:

Session: HAYNES071210A
Session Date: 07/12/2010
Judge: Haynes, Lansing L.
Reporter: Johnson, Laurie

Division: DIST
Session Time: 09:00

Courtroom: Courtroom9

Clerk(s):
Jokela, Pam
Sverdsten, Suzi

State Attorney(s): Raap, Marty

Public Defender(s): Chapman, Brad

Prob. Officer(s):

Court interpreter(s):

Case ID: 0004

Case number: CR2010-3389
Plaintiff:
Plaintiff Attorney:
Defendant: CURRY, DAVID LOREN
Pers. Attorney:
Co-Defendant(s):
State Attorney: Raap, Marty
Public Defender: Chapman, Brad
Previous audio and annotations can be found in case: 0003

07/14/2010

16:47:42

Recording Started:

16:47:42

Case recalled

16:47:48

Judge: Haynes, Lansing L.
COUNSEL HAS HAD ABOUT AN HOUR TO THINK ABOUT THE
ISSUES.

151

16:48:03 **Public Defender: Chapman, Brad**
TRIAL WILL NOT BE NECESSARY. DEF WILL ADMIT HE
HAS BEEN CONVICTED ON OR
16:48:43 ABOUT 1997 DISCHARGING FIREARM, 2006
CONVICTIONS ENTERED FIREARM AND
16:49:07 BURGLALRY. DON'T ADMIT SUFF. BASIS FOR JURY
VERDICT TODAY.

16:49:59 **Judge: Haynes, Lansing L.**
RIGHTS GIVEN.
16:50:49 MAX PENATLIES GIVEN FOR UNLAWFUL POSSESSION OF
FIREARM. MIN AND MAX
16:51:57 PENALTIES GIVEN FOR CHARGES AND HABITUAL
OFFENDER.

16:52:18 **Defendant: CURRY, DAVID LOREN**
NO PROMISES OR THREATS TO ADMIT PRIOR
CONVICTIONS. NOT UNDER INFLUENCE, NO
16:52:35 MEDS, NOT SICK.

16:53:19 **Judge: Haynes, Lansing L.**
COUNT 3 OF 2ND AMENDED INFO. FINDS WAIVED PROOF
OF ELEMENT OF COUNT 3 AND
16:58:49 PART 2. ADMITTED THE ELEMENTS TO FIND GUILTY OF
UNLAWFUL POSSESSION AND
16:59:16 PERSISTENT STATUS. ORDERS PSI.

16:59:41 **State Attorney: Raap, Marty**
NO NEED FOR EVALS

17:00:03 **Judge: Haynes, Lansing L.**
SET SENTENCINGN 8/31/10 3:30 P.M.

17:00:31 **Stop recording**

ORIGINAL

BARRY McHUGH
 Prosecuting Attorney
 501 Govt. Way/Box 9000
 Coeur d'Alene, ID 83814
 Telephone: (208) 446-1800

STATE OF IDAHO } ss
 COUNTY OF KOOTENAI }
 FILED: 7-14-10
 AT 5:00 O'CLOCK P M
 CLERK, DISTRICT COURT
 Deputy

ASSIGNED ATTORNEY:
 MARTY RAAP

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,	)	Case No. CR10-3389
)	
)	
Plaintiff,	)	PLAINTIFF'S
	)	REQUESTED JURY
vs.	)	INSTRUCTIONS
)	
DAVID CURRY,)	
)	
Defendant.)	

The Plaintiff herein respectfully submits the following requested jury instructions in addition to the Court's general instructions on the law.

DATED this 6th day of July, 2010.

MARTY RAAP
 Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 7 day of July 2010, a true and correct copy of the foregoing was caused to be hand delivered as follows:
 PUBLIC DEFENDERS

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 1

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged in Count I, with the crime of BURGLARY, alleged to have occurred as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did enter into the garage of a certain home, to-wit: a residence located at 911 Shasta Avenue, Post Falls, with the intent to commit the crime of witness intimidation and/or aggravated assault. To this charge the defendant has plead not guilty.

Citation: Idaho Code Section 18-1401

Given: ✓Refused: Modified: Covered:

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 2

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged in Count II with the crime of AGGRAVATED ASSAULT, allegedly committed as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word or act to do violence upon the person of Travis Escudero with a deadly weapon, to-wit: a handgun, which created a well-founded fear in said person that such violence was imminent. To this charge the defendant has pled not guilty.

Idaho Code Section 18-901, 18-905

Given: ✓
Refused:
Modified:
Covered:

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 3

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged in Count III with the crime of UNLAWFUL POSSESSION OF A FIREARM, alleged to have been committed as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did possess and/or have under his custody or control a firearm, to wit: a handgun, knowing that he has been convicted of discharging a firearm at an occupied house, a felony crime, on or about 1997, and unlawful possession of a firearm, a felony crime, on or about 2006, ~~and/or felony~~, a felony crime, on or about 2006, each offense having occurred in Kootenai County, Idaho. To this charge, the defendant has pled not guilty.

CITATION: IC §18-3316

GIVEN:

REFUSED: ✓

MODIFIED:

COVERED:

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 4

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged, in Court IV, with the crime of MALICIOUS INJURY TO PROPERTY alleged to have occurred as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did maliciously injure certain personal property, to-wit: a door and a car, the property of Travis Escudero. To this charge the defendant has plead not guilty.

Citation: Idaho Code Section 18-7001

GIVEN: _____

REFUSED: _____

MODIFIED: _____

COVERED: _____

withdrawn ✓

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 5

In order for the defendant, **DAVID LOREN CURRY**, to be guilty of Burglary, as charged in Count I, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. In the State of Idaho;
3. The defendant, **DAVID LOREN CURRY**, entered a building, and;
4. At the time entry was made, the defendant had the specific intent to commit witness intimidation and/or aggravated assault.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Citation: I.C. ICJI 511

Given: ☒Refused: ☐Modified: ☐Covered: ☐

Lausing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 6

YOU ARE INSTRUCTED that witness intimidation occurs when a person wilfully threatens or harasses a potential witness from testifying freely at a criminal proceeding.

Citation:

Given: _____

Refused: _____

Modified: ✓

Covered: _____

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 7

To prove that the defendant intended to commit witness intimidation and/or aggravated assault inside the building the state is not required to prove the defendant actually committed or attempted to commit witness intimidation or aggravated assault. The state need only prove that when the defendant entered the building the defendant intended to commit witness intimidation or aggravated assault.

Citation: ICJI 514 (modified)

Given: ✓

Refused: _____

Modified: _____

Covered: _____

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 8

The manner or method of entry is not an essential element of the crime of burglary. An entry can occur without the use of force or the breaking of anything.

The intent to commit the crime of witness intimidation and/or aggravated assault must have existed at the time of entry.

Citation: ICJI 515

Given: ☒Refused: ☐Modified: ☐Covered: ☐

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 9

In order for the defendant to be guilty of Aggravated Assault, as charged in Count II, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. in the state of Idaho;
3. the defendant, **DAVID LOREN CURRY**, committed an assault upon Travis Escudero;
4. with a deadly weapon and/or by means or force likely to produce great bodily harm.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

ICJI 1205

Given:
Refused:
Modified: ✓
Covered:

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 10

An "assault" is committed when a person:

- (1) unlawfully attempts, with apparent ability, to commit a violent injury on the person of another; or
- (2) intentionally and unlawfully threatens by word or act to do violence to the person of another, with an apparent ability to do so, and does some act which creates a well-founded fear in the other person that such violence is imminent.

ICJI 1201

Given:

Refused:

Modified: ✓

Covered:

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 11

A "deadly weapon or instrument" is one likely to produce death or great bodily injury. It also includes any other object that is capable of being used in a deadly or dangerous manner if the person intends to use it as a weapon.

A "deadly weapon or instrument" as used in this chapter is defined to include any firearm, though unloaded or so defective that it cannot be fired.

ICJI 1206

Given:

Refused:

Modified: ☒

Covered:

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 12

In order for the defendant to be guilty of Unlawfully Possessing a Firearm, as charged in Count III, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. in the state of Idaho;
3. the defendant, **DAVID LOREN CURRY**, possessed or had under his custody or had under his control, a firearm, and;
4. the defendant previously had been convicted of or plead guilty to a felony.

If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty. If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty.

CITATION: ICJI 1401

GIVEN:

REFUSED: ☒

MODIFIED:

COVERED:

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. t3

To establish the defendant, **DAVID LOREN CURRY**, was convicted of a felony,
the state must prove that he pled guilty to or was found guilty of the following crime:

The crime of Discharging a Firearm at an Occupied House and/or Unlawful
Possession of a Firearm and/or Forgery, which are all felonies under the law of the State of
Idaho.

CITATION: ICJI 1403

GIVEN:

REFUSED: ✓

MODIFIED:

COVERED:

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 14

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it.

More than one person can be in possession of something if each knows of its presence and has the power and intention to control it.

CITATION: ICJI 421

GIVEN: ✓

REFUSED:

MODIFIED:

COVERED:

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 15

YOU ARE INSTRUCTED that in order for the defendant, **DAVID LOREN CURRY**, to be guilty of MALICIOUS INJURY TO PROPERTY, as charged in Count IV, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. in State of Idaho;
3. the defendant, **DAVID LOREN CURRY**, did;
4. maliciously injure or destroy;
5. certain real or personal property;
6. the property of Travis Escudero;

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

Citation: Idaho Code 18-7001

GIVEN: _____

REFUSED: _____

MODIFIED: _____

COVERED: _____

withdrawn ✓Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 16

YOU ARE INSTRUCTED that the definition of "malice" and "maliciously" import a wish to hex, annoy, or injure another person, or an intent to do a wrongful act, established either for proof or presumption of law"

Withdrawn ✓

Lausing L. Haynes

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 17

It is alleged that the crime charged was committed "on or about" a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

Citation: I.C. ICJI 208

Given: _____

Refused: _____

Modified: _____

Covered: ✓

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 19

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

Citation: I.C. ICJI 106

Given: _____

Refused: _____

Modified: _____

Covered: ✓

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO 16

Having found the defendant guilty of **BURGLARY** and/or **AGGRAVATED ASSAULT** and/or **UNLAWFUL POSSESSION OF A FIREARM**, you must next consider whether he has been convicted on at least two occasions of felony offenses. The State alleges:

1. The Defendant was convicted of **DISCHARGE A FIREARM AT A HOUSE, OCCUPIED BUILDING**, Kootenai County, Idaho, Case #CR-1995-7625, on or about 12/26/1997.
2. The Defendant was convicted of **UNLAWFUL POSSESSION OF A FIREARM**, Kootenai County, Idaho, Case #CR-2006-5304, on or about 03/16/2006.
3. The Defendant was convicted of **FORGERY**, Kootenai County, Idaho, Case #CR05-16804, on or about 08/08/2006.

The existence of a prior conviction must be proved beyond a reasonable doubt and your decision must be unanimous.

YOU ARE FURTHER INSTRUCTED that in the State of Idaho, (the crimes listed above), are felony offenses.

Citation: ICJI 1601 (modified)

Given: _____

Refused: /

Modified: _____

Covered: _____

Lansing L. Haynes
JUDGE

PLAINTIFF'S REQUESTED

INSTRUCTION NO. 20

In this portion of the case you will return a verdict, consisting of a question you should answer. Since the explanations on the form which you will have are part of my instructions to you, I will read the body of the verdict form to you.

We, the Jury, duly empaneled and sworn to try the above entitled action, for special verdict, unanimously answer the question submitted to us as follows:

QUESTION: Was the defendant previously convicted on at least two prior felony offenses?

YES _____

NO _____

Citation:

Given: _____

Refused: ☒ _____

Modified: _____

Covered: _____

Lansing L. Haynes
JUDGE

FILED 7-10-10 AT 5:00 P.M.
STATE OF IDAHO, COUNTY OF KOOTENAI
SS
CLERK OF THE DISTRICT COURT
BY [Signature] DEPUTY

FIRST JUDICIAL DISTRICT COURT, STATE OF IDAHO
IN AND FOR THE COUNTY OF KOOTENAI
324 W. GARDEN AVENUE
COEUR D'ALENE, IDAHO 83814

STATE OF IDAHO

Plaintiff,

vs.

DAVID LOREN CURRY

Defendant.

DOB:

DL or SSN:

ID

Case No: CR-2010-0003389

JURY INSTRUCTIONS GIVEN

Attached hereto are the jury instructions given on the trial of the above matter.

Copies have been given to counsel of record.

DATED this 20 day of July, 2010.

[Signature]
Deputy Clerk

ORIGINAL

INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

You have heard the Information, or the charging document, read aloud, and the fact that the defendant has pled not guilty to this charge. The Information is simply a description of the charge; it is not evidence, and you should not be influenced or biased by the fact that such a charge has been filed.

Because the state has the burden of proof, it goes first. After the state's opening statement, the defense may make an opening statement, or may wait until the state has presented its case.

The state will offer evidence that it says will support the charges against the defendant. The defense may then present evidence, but is not required to do so. If the defense does present evidence, the state may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the state and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 2

Under our law and system of justice, the defendant is presumed to be innocent. The presumption of innocence means two things.

First, the state has the burden of proving the defendant guilty. The state has that burden throughout the trial. The defendant is never required to prove his innocence, nor does the defendant ever have to produce any evidence at all.

Second, the state must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is defined as follows: It is not mere possible doubt, because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is the state of the case which, after the entire comparison and consideration of all the evidence, leaves the mind of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 3

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any

problems. You are not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms "circumstantial evidence," "direct evidence" and "hearsay evidence." Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 4

If during the trial I may say or do anything which suggests to you that I am inclined to favor the claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I instruct you to disregard it.

Lansing L. Haynes
Lansing Haynes, District Court

INSTRUCTION NO. 5

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 16

I will permit you to take notes during the trial. Your notes will serve as an aid to memory and may be used during your deliberations. You are instructed, however, not to take notes during opening statements or during objections made to evidence.

You should not allow yourselves to become so consumed in the taking of notes that you miss the oral testimony or fail to observe the demeanor of the witnesses on the stand.

Your notes should not contain personal reactions or philosophical comments, but rather should be limited to a brief factual summary of testimony you deem important. You should take no notes during breaks; notes may be made only in open court while witnesses are testifying. When court recesses for the day, your notes will be kept in the custody of the bailiff.

During the jury's deliberations you may use the notes to refresh your recollection of the testimony and you may compare your notes with other jurors and discuss them. You should not view your notes as authoritative records, however, nor should they be shown to other jurors in a direct attempt to influence them.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. In addition, you cannot assign to one person the duty of taking notes for all of you.

During your deliberations, you will be entitled to have with you my instructions concerning the law that applies to this case, the exhibits that have been admitted into evidence, and any notes taken by you in the course of the trial proceedings.

When the trial is complete, any juror notes will be destroyed. At no time will juror notes be read by the court, its staff, the attorneys, or any other persons.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 7

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

First, do not talk about this case either among yourselves or with anyone else during the course of the trial. You should keep an open mind throughout the trial and not form or express an opinion about the case. You should only reach your decision after you have heard all the evidence, after you have heard my final instruction and after the final arguments. You may discuss this case with the other members of the jury only after it is submitted to you for your decision. All such discussion should take place in the jury room.

Second, do not let any person talk about this case in your presence. If anyone does talk about it, tell them you are a juror on the case. If they won't stop talking, report that to the bailiff as soon as you are able to do so. You should not tell any of your fellow jurors about what has happened.

Third, during this trial do not talk with any of the parties, their lawyers or any witnesses. By this, I mean not only do not talk about the case, but do not talk at all, even to pass the time of day. In no other way can all parties be assured of the fairness they are entitled to expect from you as jurors.

Fourth, during this trial do not make any investigation of this case or inquiry outside of the courtroom on your own. Do not go any place mentioned in the testimony without an explicit order from me to do so. You must not consult any books, dictionaries, encyclopedias or any other source of information unless I specifically authorize you to do so.

Fifth, do not read about the case in the newspapers. Do not listen to radio or television broadcasts about the trial. You must base your verdict solely on what is presented in court and not upon any newspaper, radio, television or other account of what may have happened.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 8

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count. The defendant may be found guilty or not guilty on either or both of the offenses charged.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 9

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 10

It is alleged that the crimes charged were committed "on or about" a certain date. If you find a crime was committed, the proof need not show that it was committed on the precise date alleged.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 11

In every crime or public offense there must exist a union or joint operation of act and intent.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 12

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged in Count I, with the crime of BURGLARY, alleged to have occurred as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did enter into the garage of a certain home, to-wit: a residence located at 911 Shasta Avenue, Post Falls, with the intent to commit the crime of witness intimidation and/or aggravated assault. To this charge the defendant has plead not guilty.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 13

In order for the defendant, **DAVID LOREN CURRY**, to be guilty of Burglary, as charged in Count I, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. In the State of Idaho;
3. The defendant, **DAVID LOREN CURRY**, entered a building, and;
4. At the time entry was made, the defendant had the specific intent to commit witness intimidation and/or aggravated assault.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 14

YOU ARE INSTRUCTED that witness intimidation occurs when a person, by direct or indirect force, or by any threats to a person or property, or by any manner willfully intimidates, influences, impedes, deters, threatens, harasses, obstructs, or prevents a witness, or any person who may be called as a witness, or any person he believes may be called as a witness in any criminal proceeding from testifying freely, fully, and truthfully in that criminal proceeding.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 15

To prove that the defendant intended to commit witness intimidation and/or aggravated assault inside the building the state is not required to prove the defendant actually committed or attempted to commit witness intimidation or aggravated assault. The state need only prove that when the defendant entered the building the defendant intended to commit witness intimidation or aggravated assault.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 16

The manner or method of entry is not an essential element of the crime of burglary. An entry can occur without the use of force or the breaking of anything.

The intent to commit the crime of witness intimidation and/or aggravated assault must have existed at the time of entry.

Lansing B. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 17

YOU ARE INSTRUCTED that the defendant, **DAVID LOREN CURRY**, is charged in Count II with the crime of AGGRAVATED ASSAULT, allegedly committed as follows:

That the Defendant, **DAVID LOREN CURRY**, on or about the 20th day of February, 2010, in the County of Kootenai, State of Idaho, did intentionally, unlawfully and with apparent ability threaten by word or act to do violence upon the person of Travis Escudero with a deadly weapon, to-wit: a handgun, which created a well-founded fear in said person that such violence was imminent. To this charge the defendant has pled not guilty.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 18

In order for the defendant to be guilty of Aggravated Assault, as charged in Count II, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. in the state of Idaho;
3. the defendant, **DAVID LOREN CURRY**, committed an assault upon Travis Escudero;
4. with a deadly weapon, to wit: a handgun.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 19

In order for the defendant to be guilty of Assault, the state must prove each of the following:

1. On or about the 20th day of February, 2010;
2. in the state of Idaho;
3. the defendant, **DAVID LOREN CURRY**, committed an assault;
4. upon Travis Escudero.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 20

An "assault" is committed when a person intentionally and unlawfully threatens by word or act to do violence to the person of another, with an apparent ability to do so, and does some act which creates a well-founded fear in the other person that such violence is imminent.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 21

Any firearm is a "deadly weapon," though unloaded or so defective that it cannot be fired.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 22

Certain evidence was admitted for a limited purpose.

At the time this evidence was admitted you were admonished that it could not be considered by you for any purpose other than the limited purpose for which it was admitted.

Do not consider such evidence for any purpose except the limited purpose for which it was admitted.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 23

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 24

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should do so only if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 25

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions will apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.

Lansing L. Haynes
Lansing Haynes, District Court

INSTRUCTION NO. 26

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way.

The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 27

Upon retiring to the jury room, select one of you as a presiding officer, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding officer will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.

Lansing L. Haynes
Lansing Haynes, District Judge

INSTRUCTION NO. 28

In this case you will return a verdict, consisting of a series of questions. Although the explanations on the verdict form are self-explanatory, they are part of my instructions to you. I will now read the verdict form to you. It states:

“We, the Jury, duly empanelled and sworn to try the above entitled action, for our verdict, unanimously answer the following questions:

Question No. 1: Did the State prove all of the elements of Burglary beyond a reasonable doubt?

Yes _____ No _____

Proceed to answer Question No. 2.

Question No. 2: Did the State prove all of the elements of Aggravated Assault beyond a reasonable doubt?

Yes _____ No _____

If your answer to Question No. 2 is “Yes,” sign the verdict form and notify the bailiff. If your answer to Question No. 2 is “No,” proceed to answer Question No. 3.

Question No. 3: Did the State prove all of the elements of Assault beyond a reasonable doubt?

Yes _____ No _____

Sign the verdict form and notify the bailiff.”

The verdict form then has a place for it to be dated and signed. You should sign the verdict form as explained in another instruction.

Lansing L. Haynes
Lansing Haynes, District Judge

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
FILED: 7-14-10
AT 5:00 O'CLOCK P M
Shirley K. Hootch
CLERK, DISTRICT COURT
DEPUTY

ORIGINAL

STATE OF IDAHO,)

Plaintiff,)

vs)

DAVID LOREN CURRY)

Defendant.)

Case No. CR 10-3389

VERDICT

We, the Jury, duly empanelled and sworn to try the above entitled action, for our verdict,
unanimously answer the following questions:

Question No. 1: Did the State prove all of the elements of Burglary beyond a reasonable doubt?

Yes ✓ No

Proceed to answer Question No. 2.

Question No. 2: Did the State prove all of the elements of Aggravated Assault beyond a reasonable doubt?

Yes ✓ No

If your answer to Question No. 2 is "Yes," sign the verdict form and notify the bailiff. If your answer to Question No. 2 is "No," proceed to answer Question No. 3.

Question No. 3: Did the State prove all of the elements of Assault beyond a reasonable doubt?

Yes No

Sign the verdict form and notify the bailiff.

Dated this 14 day of July, 20 10.

Darwin P. Pless
Presiding Juror

State of Idaho)
County of Kootenai) ss
Filed 7-14-10
At 5:03 o'clock P. M.
CLERK OF THE COURT
BY: Seir Swedder
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO,)

Plaintiff,)

Case No. CRF 10-3389

vs.)

David Curry,)
Defendant.)

ORDER FOR EVALUATION(S)
AND SETTING SENTENCING

In Custody ☒ Yes – Transport for PSI/Eval authorized
[] No

Phone _____)
DOB _____)

The above named defendant having - ☒ pled guilty in this matter, ☒ been found guilty by jury trial
to: Jury - Burglary, Aggravated Assault
Guilty Plea - misdemeanor Malicious Injury to Property, Felony - unlawful possession of firearm

IT IS ORDERED that not later than the next business day after the date of this order you must physically
report to Probation & Parole, 202 Anton, Coeur d'Alene, Idaho (208/769-1444) and comply with conditions of
the presentence investigation. The presentence report is due seven (7) days prior to the sentencing hearing.

IT IS FURTHER ORDERED that your continued release is conditioned upon your making and keeping all
appointments with Probation & Parole, complying with all conditions of the presentence investigator, and
obtaining any or all of the following evaluations. You must obtain any evaluation checked below.

_____ Substance Abuse Evaluation..... [] } Pursuant to I.C. 19-2524, to be paid for by
_____ Mental Health Evaluation..... [] } the Dept. of Health & Welfare subject to
_____ Psychosexual Evaluation reimbursement by the defendant.
_____ Domestic Violence Evaluation

YOU ARE ORDERED to appear for sentencing on August 31, 2010 at 3:30 p m.

DATED this 14 day of July, 2010.

Louising L. Haynes
Judge

CERTIFICATE OF DELIVERY

I hereby certify that on the 14 day of July, 2010 copies of the foregoing Order
were delivered in court, mailed-postage prepaid, sent by facsimile or interoffice mail to:

Defense Attorney: Brend Chapman

Defendant

Probation & Parole: _____

Prosecuting Attorney: Merty Reap

Health and Welfare

Other: _____

☒ In Court ☐ Interoffice ☐ Faxed _____

☒ In Court ☐ Interoffice ☐ Mailed – address above

☐ In Court ☐ Interoffice ☒ Faxed (208) 769-1481

☒ In Court ☐ Interoffice ☐ Faxed (208) 446-1833

☐ Mailed ☐ Interoffice ☐ Faxed (208) 769-1430

☐ In Court ☐ Interoffice ☐ Mailed ☐ Faxed _____

CLERK OF THE DISTRICT COURT

BY: Seir Swedder 207
Deputy

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 28 day of July, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833

X Via Fax

____ Interoffice Mail

Jennifer J. Langene

Court Minutes:

Session: HAYNES081610P
Session Date: 08/16/2010
Judge: Haynes, Lansing L.
Reporter: Johnson, Laurie

Division: DIST
Session Time: 13:43

Courtroom: Courtroom9

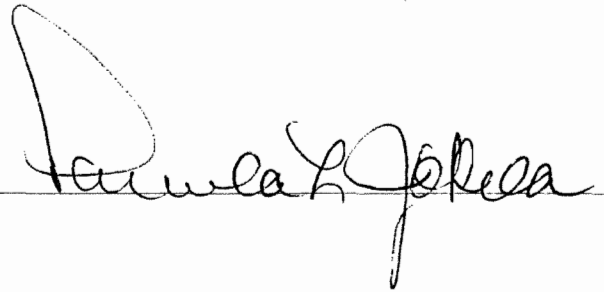
Clerk(s): Jokela, Pam

State Attorney(s): Raap, Marty

Public Defender(s):
Chapman, Brad
Taylor, Anne

Prob. Officer(s):

Court interpreter(s):



Case ID: 0002

Case number: CR2010-3389
Plaintiff:
Plaintiff Attorney:
Defendant: CURRY, DAVID LOREN
Pers. Attorney:
Co-Defendant(s):
State Attorney: Raap, Marty
Public Defender: Chapman, Brad

08/16/2010

15:42:58

Recording Started:

15:42:58

Case called

15:43:01

Judge: Haynes, Lansing L.
CVALLS CASE

15:43:06 **Add Ins: MOTION FOR NEW TRIAL**

15:43:07 **Add Ins: MOTION FOR JUDGMENT**

15:43:09 **Add Ins: OF ACQUITTAL**

15:43:16 **Defendant: CURRY, DAVID LOREN**
PRESENT AND IN CUSTODY

15:43:20 **Public Defender: Chapman, Brad**

15:43:26 **State Attorney: Raap, Marty**

15:43:29 **Judge: Haynes, Lansing L.**
PROCEED

15:43:32 **Public Defender: Chapman, Brad**
I FILED THESE MOTIONS BECAUSE I NEED TO HEAR IT
FROM THE JUDGE - I AM ASKING

15:44:01 FOR A JUDGMENT OF ACQUITTAL - OR IN THE
ALTERNATIVE I WOULD ASK FOR A NEW

15:44:21 TRIAL - ICR 34 - 19-2404 - READS OUTLOUD - I
WALKED AWAY FROM THIS TRIAL

15:44:59 THINKING I HAD FAILED - THE PROFESSION I AM
WORKING IN IF I HAVE DONE WHAT I

15:45:19 COULD - DOING THIS BUSINESS FOR SO MANY YEARS -
I AM AMAZED AT HOW THE

15:45:43 SYSTEM WORKS - THERE ARE TIMES THAT WE ARE
DISAPPOINTED - WE WALK OUT WITH A

15:46:03 CONVICTION - I CANNOT SHAKE THE FEELING THAT THE
SYSTEM FAILED - WE HAVE A

15:46:22 CHARGE OF BURGLARY - CHARGED IN THE ALTERNATIVE
- ASSAULT CHARGE WITH A

15:46:58 DEADLY WEAPON - WE DID HAVE SPECIAL VERDICT IN
THIS CASE - THE COURT DID

15:47:35 WHAT IT COULD - TRIED TO GIVE HIM A FAIR TRIAL -
WHEN THIS CASE - WE HAD THE

15:47:53 INAPPROPRIATELY DRESSED YOUNG LADY - SHE SAID
SHE NEVER SAW DAVID WITH THE

15:48:17 GUN - BOTH OFFICERS STATED HER PREVIOUS
STATEMENT - YOU GAVE LIMITED

15:48:41 INSTRUCTIONS - SHE TOLD THE OFFICER THAT DAVID
 HAD A GUN AND SHE WAS SCARED
 15:49:25 OF HIM - I THOUGHT OF ASKING FOR A MISTRIAL -
 WITNESS INTIMIDATION - FELON IN
 15:49:48 POSSESSION OF FIREARM - THE OFFICERS STATED SHE
 WAS FEARFUL OF HIM - THAT IS
 15:50:21 A LITTLE BIT TOO MUCH FOR THE JURY - THIS JURY
 HEARD FROM THIS YOUNG LADY -
 15:50:54 SHE NEVER SAW DAVID WITH A GUN - THEN THE POLICE
 SAY SHE TOLD THEM SHE SAW
 15:51:13 HIM WITH A GUN AND SHE WAS SCARED - IF I WAS ON
 A JURY I WOULD WANT TO
 15:51:30 PROTECT THAT LITTLE GIRL - THIS JUST DOES NOT
 SET RIGHT - YOU DO HAVE THE
 15:52:19 DISCRETION TO GRANT A NEW TRIAL

 15:52:28 **State Attorney: Raap, Marty**
 THESE ARE MADE BECAUSE THE OUTCOME DOES NOT SIT
 RIGHT WITH DEFENSE - JUST
 15:52:52 BECAUSE YOU DON'T LIKE THE VERDICT YOU DON'T
 GET TO COME IN AND ASK FOR A
 15:53:05 NEW ONE - THERE IS NO LEGAL ARGUMENT - WE
 ALREADY ARGUED THESE POINTS IN
 15:53:26 COURT - WE HAVE NOT HEARD ARGUMENT THAT IT WAS
 WRONG - AS TO JUDGMENT OF
 15:53:52 ACQUITTAL - THE COURT MADE IT HARDER FOR ME TO
 PROVE THIS CASE - THE JURY
 15:54:25 CONVICTED ON THAT - MOTION FOR ACQUITTAL - HE
 DID A RULE 29 AND IT WAS DENIED
 15:55:00 - THE JURY FELT THERE WAS BASIS FOR VERDICT - I
 HAVE NOT HEARD ANYTHING LEGAL
 15:55:20 FOR MOTION FOR NEW TRIAL - I DON'T SEE ANY
 ARGUMENT GOING TO ANY SUBSECTION -
 15:55:37 THERE IS NO NEW EVIDENCE - IT IS AN EMOTIONAL
 PLEA - ARGUED AT LENGTH - THERE
 15:57:07 WAS INDEPENDANT TESTIMONY THAT HE WAS GOING TO
 COME TO THE HOUSE AND START A
 15:57:22 FIGHT - AND MELISSA CHOSE TO LEAVE THE HOUSE -
 BECAUSE SHE DID NOT WANT TO BE
 15:57:36 THERE WHEN HE ARRIVED THERE - IT IS NOT ARGUMENT
 FOR A NEW TRIAL - THERE IS
 15:58:02 SPECIFIC REQUIREMENTS - NOTHING HAS BEEN MET TO
 MEET THESE MOTIONS - IT IS
 15:58:24 WHAT IT IS - THE JURY REACHED THE RIGHT DECISION
 - DENY THE MOTIONS

15:58:37 **Public Defender: Chapman, Brad**
THE VERDICT IS CONTRARY TO LAW AND EVIDENCE -
COUNSEL TALKS ABOUT EMOTION - I
15:59:08 DO CARE - IT IS SOMEONES LIFE AND FUTURE - I
DON'T CARE IF I GET MY BUTT
15:59:28 KICKED IN THE COURTROOM - I JUST DID NOT
UNDERSTAND THIS VERDICT - YOU HEARD
15:59:57 THE TRIAL - THANK YOU FOR YOUR PATIENCE

16:00:07 **Judge: Haynes, Lansing L.**
IT IS THE COURTS DISCRETION TO GRANT A NEW
TRIAL - 19-2406 (6) - THAT IS
16:00:29 ELUDED TO IN THE DEFENDANTS MOTION - RULE 29
GOVERNS THE MOTION FOR JUDGMENT
16:00:49 OF ACQUITTAL - THERE WAS ENOUGH EVIDENCE FOR A
JURY TO CONCLUDE TOO -
16:01:10 I DO DENY THE MOTION FOR NEW TRIAL - IT IS NOT
CONTRARY TO LAW - DENY THE
16:02:05 MOTION FOR JUDGMENT ACQUITTAL - TOO MUCH
IMPEACHMENT TESTIMONY - NO CITING OF
16:02:50 STANDARD BY DEFENSE - COURT WAS ALARMED BY THE
OFFICERS STATING MS FERRA SAW
16:03:25 A GUN AND SCARED OF HIM - SHE DID STATE SHE HAD
SEEN HIM WITH A GUN AND THAT
16:04:02 SHE WAS FEARFUL OF HIM - THE VERDICT WAS
CONTRARY TO LAW - EVEN IF THAT
16:04:35 STATEMENT WAS NOT MADE - HE ALREADY ADMITTED TO
WRITING ON THE DOOR - ALSO
16:04:54 MILD VANDALISM ON THE CAR - HE CALLED THE HOME
AND SAID HE WAS COMING FOR HER
16:05:10 - SHE MADE THE PRUDENT DECISION TO LEAVE - HE
STRIDE INTO THE GARAGE -
16:08:04 DENY THE MOTIONS - MR RAAP PLEASE PRESENT THE
COURT WITH THE ORDER CONSISTANT
16:08:39 WITH MY RULING

16:08:45 **Stop recording**

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI

2010 AUG 19 PM 4:25

STATE OF IDAHO,)
)
) Plaintiff,) CASE NO. F10-3389
)
) ORDER
 vs.)
)
)
 DAVID CURRY,)
)
) Defendant.)
 _____)

COURT
Sus Swendsen

The above entitled matters came on for a MOTION FOR JUDGMENT OF ACQUITTAL AND MOTION FOR NEW TRIAL before the Honorable Judge Haynes on August 16, 2010. Personally present was the Defendant and the Defendant's attorney of record, Brad Chapman. Also appearing was Marty Raap, Deputy Prosecuting Attorney. Argument was given. Based upon such, the Court then ruled as follows:

HEREBY FINDS AND ORDERS:

That the Defendant's Motions for Judgment of Acquittal and Motion for New Trial are hereby denied.

DATED this 19 day of August, 2010.

Lansing L. Haynes
JUDGE

CLERK'S CERTIFICATE OF MAILING

I hereby certify that on the 19 day of Aug, 2010, that a true and correct copy of the foregoing were mailed/delivered by regular U.S. Mail, postage prepaid, Interoffice Mail, Hand Delivered, or Faxed to:

Prosecutor 446-1837
KCPSB _____
Bonding Co. _____

Defense Attorney 80 446-1701 Defendant _____
Auditor _____ Police Agency _____
Other _____

DANIEL ENGLISH
CLERK OF THE DISTRICT COURT

BY: Sus Swendsen, Deputy

ORDER

Court Minutes:

Session: HAYNES083110P
Session Date: 08/31/2010
Judge: Haynes, Lansing L.
Reporter: Johnson, Laurie

Division: DIST
Session Time: 12:41

Courtroom: Courtroom9

Clerk(s): Sverdsten, Suzi

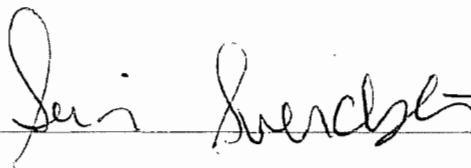
State Attorney(s): Raap, Marty

Public Defender(s):

Chapman, Brad
Neils, Martin
Nelson, Lynn

Prob. Officer(s):

Court interpreter(s):



Case ID: 0003

Case number: CR2010-3389

Plaintiff:

Plaintiff Attorney:

Defendant: CURRY, DAVID

Pers. Attorney:

Co-Defendant(s):

State Attorney: Raap, Marty

Public Defender: Chapman, Brad

08/31/2010

15:46:01

Recording Started:

15:46:01

Case called

15:46:06

Judge: Haynes, Lansing L.

15:46:39 SENTENCING, DEF IS IN CUSTODY.
I'VE REV'D PSI WITH ATTACHMENTS.

15:47:44 **Public Defender: Chapman, Brad**
CORRECTION TO PSI.

15:48:51 **Defendant: CURRY, DAVID**
WORK HARD ON SOBRIETY. IF GIVEN PROB, NO
QUESTION OF DOUBT OF MY SUCCESS.

15:50:29 **State Attorney: Raap, Marty**
RECS GIVEN. YOU ARE VERY FAMILIAR WITH CASE.
HABITUAL OFFENDER IS SERIOUS

15:55:26 MATTER TO GET UP TO YOUR 3RD FELONY OFFENSE. 3
OUT OF 4 FELONIES ARE GUN

15:56:02 RELATED. NO REALLY SUBSTANCE ABUSE, JUST
STRAIGHT UP ANGER. PROTECT

15:57:12 SOCIETY.

15:57:16 **Public Defender: Chapman, Brad**
THROUGHOUT, CLIENT HAS BEEN RESPECTFUL. WE COME
B 4 YOU AFTER THE JURY

15:58:33 VERDICT. COURT HAS ENORMOUS AMOUNT OF
DISCRETION. HE ADMITTED MALICIOUS

15:58:59 INJURY. DAVID HAS BEEN I.C. SINCE HIS ARREST.
HE HAS BEEN AN INMATE WORKER,

15:59:59 MODEL PRISONER. DID WELL ON PROB. NO REASON TO
DOUBT HIS STATEMENT THAT HE

16:01:00 HAS KEPT WORKING ON SOBRIETY. I REC'D THE PSI
AND I HAS HEARTENED TO SEE

16:01:44 SOMEONE COULD SEE DAVID AS I SAW. HE HAS FAMILY
IN COURTROOM SUPPORTING HIM.

16:02:00 HE HAS A FAMILY TO SUPPORT. ASK SUSPENDED
EXECUTION, SUPERVISED PROB. HE

16:04:05 DOES HAVE A RECORD.

16:05:01 **Judge: Haynes, Lansing L.**
GUILTY VERDICT OF AGGRAVATED ASSAULT, EST OF
UNLAWFUL POSSESSION OF FIREARM

16:06:13 GUILTY VERDICT TO BURGLARY, GP TO MAL. INJ PROP.
HABITUAL OFFENDER FOUND.

16:07:26 4 FACTORS OF SENTENCING GIVEN. CRIMINAL
HISTORY. DID OK FROM 2006 TO FEB 201

16:08:36 0, AND NOW GUILTY OF OFFENSES THAT PUTS PEOPLE
AT RISK. GUILTY OF OFFENSES

16:09:46 FOUND BY JURY VERDICT. COMFORTABLE WITH GUILTY

VERDICT. FACTORS TO CONSIDER
16:12:55 FOR SENTENCING GIVEN. NEED FOR SOME SORT OF
CORRECTIONAL TREATMENT.
16:13:25 CRIMINAL THINKING STILL IN PLACE. YOU KNEW YOU
WHERE ELIGIBLE TO BE HABITUAL
16:14:12 OFFENDER. WILL IMPOSE A PRISON SENTENCE.
BURGLARY 13 YRS, 4 FIXED. AGG
16:17:23 ASSAULT 15 YRS, 5 FIXED. WEAPON CHARGE 13 YRS,
4 FIXED. MAL INJ 180 DAYS
16:18:07 JAIL 174 CREDIT. 174 DAYS CRDIT ON EACH
ACCOUNT. ALL COUNTS CONCURRENT.

16:18:44 **Stop recording**

STATE V.

CASE NO.

Pled Guilty to

Found Guilty by Jury

David Curry

DATE:

8/31/10

CR 10-3389

Weapon Charge /
Agg. Assault

MISP - Mal Eng Prop

DEFENDANT SENTENCED AS FOLLOWS:

COMMITTED TO CUSTODY OF THE IDAHO STATE BOARD OF CORRECTIONS

JURISDICTION IS RETAINED

RETAINED JURIS IS EXERCISED & SENTENCE IS SUSPENDED

RETAINED JURIS IS EXERCISED & SENTENCE IS MODIFIED

JURISDICTION IS RELINQUISHED & SENTENCE IS IMPOSED

PV FOUND

Habitual
offender

concurrent

4

YEARS FIXED

9

YEARS INDETERMINATE, NTE

13

YEARS UNIFIED SENTENCE

AS TO

Burglary

5

YEARS FIXED

10

YEARS INDETERMINATE, NTE

15

YEARS UNIFIED SENTENCE

AS TO

Aggravated Assault

4

YEARS FIXED

9

YEARS INDETERMINATE, NTE

13

YEARS UNIFIED SENTENCE

AS TO

Weapon Charge

WITHHELD JUDGMENT FOR A PERIOD OF

YEARS, PLACED ON SUPERVISED PROBATION

FOR A PERIOD OR

YEARS

Habitual Offender

JUDGMENT AND SENTENCE SUSPENDED & PLACED ON SUPERVISED PROBATION FOR

YRS

RECOMMEND NEW DIRECTIONS PROGRAM

RECOMMEND SUBSTANCE ABUSE TREATMENT/COUNSELING

RECOMMEND THERAPEUTIC COMMUNITY PROGRAM

RECOMMEND COMMUNITY WORK CENTER

MISP - malicious
Injury

180 / 174 credit

TERMS AND CONDITIONS OF PROBATION

Court Costs \$125.50 \$165.50 (Drug) \$115.50 (DUI) \$140.50 (DWP) \$155.50 (Domestic Violence) \$300.00 (sex offenses)

Fine \$

Add'l Costs

Prosecution

Defense

Dist Court

Comm Service

IDOC Costs

Restitution to Victim

Juris. Reserved, P.A. has

days to submit Court orders \$

Local Jail imposed

Days commencing

Credit for time served

Work release granted

Treatment release granted

In lieu of

Days, serve

Community Service

hours

days per month for

consecutive months commencing

complete by

KC Sheriff's Labor Program

days commencing

complete by

Attend rehab, educational & vocational programs

Obtain and maintain full time employment and/or educational program

Undergo substance abuse evaluation if requested by P&P

Complete substance abuse/mental health counseling if requested by P&P

Comply with rules and regulations of IDOC

Supervision at any level deemed appropriate by P&P

No violations of laws of State, City, U.S., etc.

Consume no alcohol during probation

Enter no establishment where alcohol sold

Enter no home, business or other premises containing drugs or occupied by drug users

No association with individuals specified by P&P

No contact with victim or victim's family

Consent to analysis of blood, breath, urine at own expense (P.O. Officer)

Don't purchase, possess or use substances which alter testing for alcohol/drugs

Consent to searches of property, car and residence (P.O. Officer)

Waive extradition to the State of Idaho

Submit to Polygraph at own expense

Reside in Idaho

90 days discretionary time at discretion of P&P

Bond Exonerated

No Contact Order terminated No Contact Order continues until

SEX OFFENSES

Submit to polygraph exam at request of investigator/P&P

Sex Offender Program

No association with juvenile Not intimate with a parent of a minor child

Not intimate with juvenile or parent of juvenile

Do not possess pornography or sexually explicit materials

Use any means, including computers

DUI OFFENSES

Driving privileges suspended for years

Permission to apply for temporary privileges

after years Surrender driver's license

Complete Victim's Panel by

Interlock device on any vehicle operated

for years/or until expiration of probation term

218

concurrent

174 days credit

FIRST JUDICIAL DISTRICT COURT, STATE OF IDAHO
AND FOR THE COUNTY OF KOOTENAI
P.O. BOX 9000
COEUR D'ALENE, IDAHO 83816-9000
(208) 446-1170

FILED 9/10/2010 AT 10:40 AM
STATE OF IDAHO, COUNTY OF KOOTENAI SS
CLERK OF THE DISTRICT COURT
BY [Signature] DEPUTY

STATE OF IDAHO
Plaintiff,

vs.
David Loren Curry
801 Glacier Peak Dr
Post Falls, ID 83854

Defendant.

DOB: [REDACTED] SEX: M
DL: [REDACTED] ID
CDL: [REDACTED]
VEH LIC:
COMM VEH: No
HAZ MATL: No

Case No: CR-2010-0003389

ORDER TO
☐ MODIFY
☐ CONTINUE TERMS OF
☒ TERMINATE
NO CONTACT ORDER

A No Contact Order having been entered in this case on February 24, 2010; and good cause appearing to modify, continue the terms of, or terminate said order,

IT IS HEREBY ORDERED that the No Contact Order previously issued herein be:

☐ **Modified** as follows, and to be in effect until 11:59 p.m. on _____, or upon dismissal of the case:

☐ **Continued** as follows:

☐ original terms remain in effect until 11:59 p.m. on _____
☐ _____

☒ **Terminated** as of the date of this order,

☒ judgment/final order entered, bond (and conditions of bond) exonerated.

☐ upon request of the Prosecutor and Victim.

☐ civil protection order already has or will be obtained by victim(s).

☐ diversion program entered into by defendant on terms set out by the prosecutor.

219

[] _____
ENTERED Sept. 9, 2010.

Lansing L. Haynes
Judge

Copies sent 9/10 /, 2010 **VIA FAX**, mail or hand delivery to:

☒ KCSO Records Department (208) 446-1307 at 10:50 A.m. per ICR 46.2

[] KCSO 446-1407 [] Cd'A Police 769-2307 [] PF Police 773-3200 [] Rathdrum Police 687-6959
[] SL Police 623-6155

☒ Kootenai County Prosecutor (208) 446-1833

☒ Defense Attorney: J. Bradford Chapman, Deputy Public Defender

☒ Faxed (208) 446-1701

☒ Mailed Interoffice Delivery

Coeur D' Alene ID 83816-9000

[] Defendant [] mailed to the address shown in the caption of this document
[] hand delivered
[] faxed _____

Daniel J. English
Clerk Of The District Court

By: Shirley Smith

Deputy Clerk

To: K-50 Records at FAX (208) 46-1307
(per Idaho Criminal Rule 46.2)

NCO TO FOLLOW

Quantity

MODIFY
1 **TERMINATE**

 3 **Pages** (Including this page)
From District Court
DATE 9 / 10 / 10

RE: David Loren Curry

Case No. CR-2010-0003389

Address Update (If Any):

(Party)
(Street)
(City, State, Zip)

Copy sent this date to:

[] Cd'A Police 769-2307 [] PF Police 773-3200 [] Rathdrum Police 687-6959 [] SL Police 623-6155

FIRST JUDICIAL DISTRICT COURT, STATE OF IDAHO, COUNTY OF KOOTENAI
324 W. GARDEN AVENUE, P.O. BOX 9000, COEUR D'ALEN IDAHO 83816-9000

STATE OF IDAHO V
DAVID LOREN CURRY
801 GLACIER PEAK DR
POST FALLS ID 83854

DL# [REDACTED] ID
DOB: [REDACTED] AGENCY: POST FALLS POLICE DEPT

CASE # CR-2010-0003389 CITATION # 74471

CHARGE: 118-7001 M PROPERTY-MALICIOUS INJURY TO PROPERTY

AMENDED:

JUDGMENT

FILED 9-10-10 AT 9:45 AM

CLERK OF THE DISTRICT COURT

BY [Signature] DEPUTY
BOND

The defendant having been fully advised of his/her statutory and constitutional rights including the right to be represented by counsel, and

- | | |
|---|--|
| <input type="checkbox"/> Been advised of right to court appointed counsel if indigent | <input type="checkbox"/> Judgment--Not Guilty |
| <input type="checkbox"/> Defendant waived right to counsel | <input type="checkbox"/> Judgment on Trial--Guilty |
| <input checked="" type="checkbox"/> Defendant represented by counsel | <input type="checkbox"/> Judgment for Defendant / Infraction |
| <input checked="" type="checkbox"/> Judgment, Plea of Guilty / Rights Waived 7-13-10 | <input type="checkbox"/> Judgment for State / Infraction |
| <input type="checkbox"/> Withheld Judgment <input type="checkbox"/> Accepted | <input type="checkbox"/> Bond Forfeited / Conviction Entered - Case Closed |
| <input type="checkbox"/> Dismissed | <input type="checkbox"/> Bond Forfeited / Dismissed |

MONIES ORDERED PAID:

A \$2.00 handling fee will be imposed on each installment.

- ☐ Fine / Penalty \$ _____ which includes costs, and probation fee if applicable. Suspended \$ _____
☐ Pay within 30 days of today, or enroll in time payment program BEFORE due date.
☐ Community Service _____ hours by _____ Setup Fee \$ _____ Insurance Fee \$ _____

Must sign up within 7 days.

- ☐ Reimburse _____
☐ Restitution _____
☐ Bond Exonerated, provided that any deposit shall first be applied pursuant to Idaho Code 19-2923 in satisfaction of outstanding fines, fees and costs with any remainder to be refunded to the posting party. ☐ Authorization from defendant to pay restitution +/- or infractions from bond.
☐ No Contact Order, as condition of bond, terminated.

INCARCERATION ORDERED:

- ☒ Jail 180 days, Suspended _____ days, Credit 174 days, Unscheduled Jail _____ days are imposed & will be scheduled by the Adult Misdemeanor Probation Office, or Court, for violations of the terms below or on the attached addendum.
☐ Report to Jail _____ Release _____ ☐ Work Release Authorization (if you qualify).
☐ Sheriff's Community Labor Program in lieu of Jail (if you qualify) _____ hours by _____ Must sign up within 7 days.
Follow the Labor Program schedule and policies.

concurrent with CTS I, II + III

DRIVING PRIVILEGES SUSPENDED _____ days commencing _____

REINSTATEMENT OF DRIVING PRIVILEGES MUST BE ACCOMPLISHED before you can drive. Apply to DRIVER'S SERVICES, P.O. Box 7129, Boise, ID. 83707-1129.

- ☐ Temporary Driving Privileges Granted commencing _____

To, from and for work purposes / required medical care / court ordered alcohol program / community service. Must carry proof of work schedule and liability insurance at all times. Not valid if insurance expires.

PROBATION ORDERED FOR _____ YEAR(S) ON THE FOLLOWING CONDITIONS:

☐ Supervised - See Addendum

- ☐ Violate no federal, state or local laws more serious than an infraction. ☐ Commit no similar offenses.
☐ Maintain liability insurance on any vehicle that you drive.
☐ Do not operate a motor vehicle with any alcohol or controlled substances in your bloodstream.
☐ You must submit to any blood alcohol concentration test requested of you, with reasonable cause, by a peace officer.
☐ Obtain a Substance Abuse/Battery Evaluation, and file proof of evaluation, within _____ days.
☐ Enroll in & complete _____ program. File proof of completion within _____ days.
☒ Notify the court, in writing, of any address change within 10 days. Agrees to accept future service by mail at the last known address.
☐ Interlock ignition device required on vehicle for _____ year(s). To be installed per attached addendum.
☐ Other _____

THE SUSPENDED PENALTIES ARE SUBJECT TO YOUR COMPLIANCE WITH ALL TERMS HEREIN

THE DEFENDANT HAS THE RIGHT TO APPEAL
THIS JUDGMENT WITHIN 42 DAYS

Copies To:

Def. _____ Def. Atty. PD-446-1201 Pros. 446-1833 [] Other _____ [] Comm. Serv. [X] Jail (fax 446-1407)

[] KCSO RECORDS fax 446-1307 (re: NCO) [] Agency _____ fax _____ (re: NCO) [] Dr. Serv. fax 208-334-8739 [] Auditor fax 446-1661 [] AMP (fax 446-1990)

9 Sept. 2010
Date Lansing L. Haynes Judge # 151 222

FILED 9-19-10 AT 9:45 A.M.
STATE OF IDAHO, COUNTY OF KOOTENAI SS
CLERK OF THE DISTRICT COURT
BY [Signature] DEPUTY

FIRST JUDICIAL DISTRICT COURT, STATE OF IDAHO
IN AND FOR THE COUNTY OF KOOTENAI
324 W. GARDEN AVENUE
COEUR D'ALENE, IDAHO 83814

STATE OF IDAHO
Plaintiff,

vs.

David Loren Curry
Defendant.

DOB: [Redacted]
DL or SSN: [Redacted] ID

Case No: CR-2010-0003389

JUDGMENT

On August 31, 2010, before the Honorable Lansing L. Haynes, District Judge, you, David Loren Curry, personally appeared for sentencing. Also appearing were Marty Raap, Deputy Prosecuting Attorney for Kootenai County, and your counsel, J. Bradford Chapman, Deputy Public Defender.

WHEREUPON, the previously ordered presentence report having been filed, and the Court having ascertained that you have had an opportunity to read the presentence report and review it with your lawyer, and you having been given the opportunity to explain, correct or deny parts of the presentence report, and you having been given the opportunity to make a statement, and recommendations having been made by counsel for the State and by your lawyer, and there being no legal reason given why judgment and sentence should not then be pronounced, the Court did then pronounce its sentencing disposition.

IT IS HEREBY ORDERED that you, after exercising your right to a jury trial, and the jury having entered a verdict of guilty to the criminal offense(s) charged in the Information on file herein as follows:

Count I - Burglary, Idaho Code § 18-1401, 19-2514, a Felony.

Count II - Aggravated Assault, Idaho Code § 18-901, 18-905, 19-2514, a Felony.

Count III – Unlawful Possession of a Firearm, Idaho Code § 18-3316, 19-2514, a Felony.

And you having admitted Habitual Offender Status pursuant to Idaho Code § 19-2514.

THAT YOU ARE GUILTY OF THE CRIME(S) SO CHARGED, and now, therefore,

IT IS FURTHER ORDERED that, pursuant to Idaho Code §19-2513, you are sentenced as follows:

Count I - For a total unified sentence not to exceed thirteen (13) years, commencing with a fixed period of four (4) years, to be followed by an additional indeterminate period of nine (9) years.

Count II - For a total unified sentence not to exceed fifteen (15) years, commencing with a fixed period of five (5) years, to be followed by an additional indeterminate period of ten (10) years.

Count III - For a total unified sentence not to exceed thirteen (13) years, commencing with a fixed period of four (4) years, to be followed by an additional indeterminate period of nine (9) years.

Sentences imposed are concurrent.

IT IS FURTHER ORDERED that you are committed to the custody of the Idaho State Board of Correction on August 31, 2010.

IT IS FURTHER ORDERED that you are remanded to the custody of the Kootenai County Sheriff pending transport to the Idaho State Board of Correction.

IT IS FURTHER ORDERED that you will be given credit for one hundred seventy-four days time served on the above charges.

IT IS FURTHER ORDERED that any bail posted in this matter shall be exonerated, provided that any deposit shall be applied pursuant to Idaho Code §19-2923.

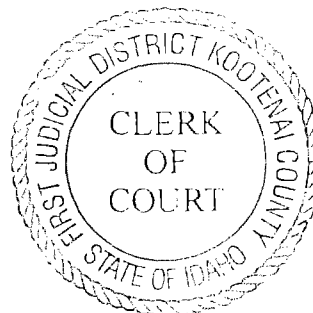
NOTICE OF RIGHT TO APPEAL

YOU ARE HEREBY NOTIFIED that you have a right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days of the entry of the written order in this matter.

YOU ARE FURTHER NOTIFIED that if you are unable to pay the costs of an appeal, you have the right to apply for leave to appeal in forma pauperis or to apply for the appointment of counsel at public expense. If you have questions concerning your right to appeal, you should consult your present lawyer.

DATED this 9 day of Sept., 2010.

Lansing L. Haynes
Lansing L. Haynes
District Judge



CERTIFICATE OF MAILING/SERVICE

I hereby certify that on the 10 day of Sept, 2010, copies of the foregoing Judgment were mailed, postage prepaid, faxed, or sent by interoffice mail to:

/ Prosecuting Attorney for Kootenai County (FAX 208-446-1833)
X J. Bradford Chapman, Deputy Public Defender via FAX: (208) 446-1701
X Idaho Department of Correction (FAX 208-327-7445)
X Probation & Parole (FAX 208-769-1481)
X Kootenai County Sheriff's Department (FAX 208-446-1407)
X Pre-Trial Services FAX 446-1990

DANIEL ENGLISH
CLERK OF THE DISTRICT COURT

By [Signature]
Deputy Clerk

ORIGINAL

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

151
STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: LSS

2010 SEP 24 PM 2:40

CLERK DISTRICT COURT
DEPUTY
[Signature]

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAVID LOREN CURRY,

Defendant.

CASE NUMBER CR-10-0003389

MOTION FOR RECONSIDERATION
OF SENTENCE PURSUANT TO
I.C.R. 35

Comes now, your undersigned, and moves this Court pursuant to ICR 35 for its reconsideration of the sentences imposed in this matter.

This motion is made as a plea for leniency, and is based at least in part on the attached witness/victim statement.

Oral argument and leave to adduce testimony are herewith requested, should the Court be not otherwise disposed to grant relief.

DATED this 24 day of September, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:

[Signature]
J. BRADFORD CHAPMAN
SR. STAFF ATTORNEY

**MOTION FOR RECONSIDERATION
OF SENTENCE PURSUANT TO I.C.R. 35**

Page 1

227

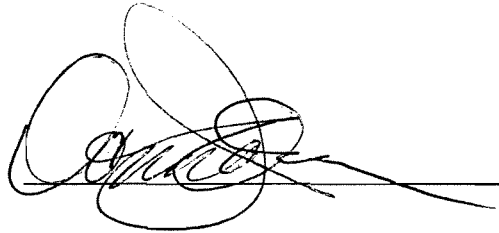
CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 24 day of September, 2010, addressed to:

Kootenai County Prosecutor FAX 446-1833

☒ Via Fax

☐ Interoffice Mail

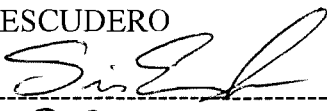
A handwritten signature in black ink, appearing to be "C. Miller", written over a horizontal line.

To Whom It May Concern:

My name is Travis J. Escudero and I was currently a Witness for a case involving David Curry. I am writing this in regards to the situation at hand with Mr. Curry. I was informed that there are some people who believe Mr. Curry is a Threat to me and my family. In my eyes I do not see this to be true at all. The Events that took place regarding this Case were made out to be More than they really were. The whole thing was one big unfortunate ordeal. I believe that if Mr. David Curry was to be released that there would be no threat to me or my family. Mr. David Curry was and still is in my eyes a Good person who unfortunately made a poor decision at the time. Before this incident happened Mr. Curry was a good family friend of ours, Helped me and my Wife with numerous things from Watching our Children, to Bringing us Milk when needed, and most importantly being a Good Friend. So please do not give him a sentence that is based against FALSE INFORMATION. I DO NOT BELIEVE MR. DAVID CURRY TO BE A THREAT OR A FACTOR OF FEAR TO MYSELF OR ANY OTHER PERSON RESIDING IN MY HOME. With this being said I would also like to include that I was not asked to write this letter, I heard about Mr. Curry getting his Sentence soon and want for him to receive a FAIR TRIAL with out any misunderstandings about my well being as well as my families. I hope that everything I have written will be helpful for Mr. David Curry to further his life and hopefully Reduce his sentence. If there is anything I can do or Say to further assist you please feel free to contact me: 208-964-9315

Thank You for your time.
SINCERELY,

MR. TRAVIS J. ESCUDERO

X 
09-15-10

ORIGINAL

J. Bradford Chapman, ISB 5101
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83814
Phone: (208) 446-1700; Fax: (208) 446-1701

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: ^{SS}

2010 OCT -1 AM 10:40

CLERK DISTRICT COURT

[Signature]
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff/
Respondent,

V.

DAVID LOREN CURRY,

Defendant/
Appellant.

CASE NUMBER CR2010-3389

NOTICE OF APPEAL

**TO: THE ABOVE NAMED RESPONDENT, STATE OF IDAHO, AND THE
CLERK OF THE ABOVE ENTITLED COURT:**

1. The above named Appellant hereby appeals against the above named Respondent, the State of Idaho, to the Idaho Supreme Court from the Judgment entered in the above entitled matter on September 10, 2010, and from the Order (denying Motions for Judgment of Acquittal and for New Trial) entered August 19, 2010, the Honorable Lansing Haynes, presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the Judgment described above in paragraph one, is an appealable Judgment under and pursuant to Idaho Appellate Rule 11(c).

3. The issues Appellant intends to assert in this appeal include, but are not necessarily limited to:

230

Was the evidence adduced at trial sufficient to sustain the convictions?

Did the State prejudice Mr. Curry's right to a fair trial by committing prosecutorial misconduct?

Were the sentences imposed an abuse of discretion, where the PSI recommended probation yet the trial court imposed imprisonment?

4. Appellant requests the preparation of the entire reporter's standard transcript as defined in Rule 25 I.A.R., and to also include the following, pursuant to Rule 25 (b):

Jury trial, 7/12/10 through 7/14/2010, Court Reporter Laurie Johnson, page estimate 500

Motion hearing 8/16/2010, Court Reporter Laurie Johnson, page estimate = 25

Sentencing hearing 8/31/2010, Court Reporter Laurie Johnson, page estimate = 25

5. The Appellant requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28 I.A.R.:

PSI, to include all attachments

6. Your undersigned believes that other than the PSI, no part of this record has been sealed.

7. I hereby certify as follows:

A. A copy of this Notice of Appeal has been served upon the court reporter. (Laurie Johnson)

B. The Appellant is exempt from paying the estimated transcript fee because the Appellant is an indigent who is represented by the Office of the Kootenai County Public Defender.

C. The Appellant is exempt from paying the filing fee because the Appellant is an indigent who is represented by the Office of the Kootenai County Public Defender.

D. The Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is an indigent who is represented by the Office of the Kootenai County Public Defender.

E. Service has been made upon all parties required to be served pursuant to Rule 20 I.A.R., to wit the Kootenai County Prosecuting Attorney, and the Attorney General of Idaho pursuant to Section 67-1401 (1) Idaho Code.

DATED this 1 day of October, 2010.

OFFICE OF THE KOOTENAI COUNTY
PUBLIC DEFENDER

BY:



J, BRADFORD CHAPMAN
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 1 day of October, 2010, served a true and correct copy of the attached NOTICE OF APPEAL via interoffice mail or as otherwise indicated upon the parties as follows:

<u> X </u>	Kootenai County Prosecuting Attorney P.O. Box 9000 Coeur d'Alene, Idaho 83816-9000	via Interoffice Mail
<u> X </u>	Molly J. Huskey State Appellate Public Defender 3647 Lake Harbor Lane Boise, Idaho 83703	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Facsimile (208) 334-2985
<u> X </u>	Lawrence G. Wasden Attorney General P.O.Box 83720 Boise, Idaho 83720-0010	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Facsimile (208) 854-8074

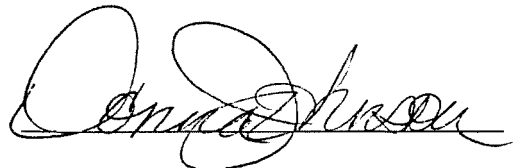
_____ Reporter for District Judge John T. Mitchell, Julie Foland (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via Interoffice Mail

_____ Reporter for District Judge Fred M. Gibler, Byrl R. Cinnamon (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via Interoffice Mail

_____ Reporter for District Judge John P. Luster, Anne MacMannus (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via Interoffice Mail

_____ Reporter for District Judge Benjamin Simpson, JoAnn Schaller (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via Interoffice Mail

 X Reporter for District Judge Lansing Haynes, Laurie Johnson (Kootenai County, PO Box 9000, Coeur d'Alene, ID 83816) via Interoffice Mail



ORIGINAL

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

151
STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: ss

2010 OCT -1 PM 2:36

CLERK DISTRICT COURT

DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAVID LOREN CURRY,

Defendant.

CASE NUMBER CR-10-0003389

**MOTION FOR APPOINTMENT OF
STATE APPELLATE PUBLIC DEFENDER
IN DIRECT APPEAL; RETAINING TRIAL
COUNSEL FOR RESIDUAL PURPOSES**

COMES NOW, the above named defendant, by and through his attorney, J. Bradford Chapman, Deputy Public Defender and hereby moves the Court for an Order pursuant to Idaho Code §19-867, et seq., and Rule 13(b), (12) and (19) for its order appointing the State Appellate Public Defender's Office to represent the Appellant in all further proceedings. This motion is brought on the grounds and for the reasons that the Defendant is currently being represented by the Office of the Public Defender, Kootenai County; the State Appellate Public Defender is authorized by statute to represent the Defendant in all felony appellate proceedings; and it is in the interest of justice, for them to do so in this case since the Defendant is indigent, and any further proceedings on this case will be appealed.

**MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER IN
DIRECT APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES -1 -**

DATED this 1 day of October, 2010.

OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY:


J. BRADFORD CHAPMAN
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 1 day of October, 2010, served a true and correct copy of the attached MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER via interoffice mail or as otherwise indicated upon the parties as follows:

<u>X</u>	Kootenai County Prosecuting Attorney P.O. Box 9000 Coeur d'Alene, Idaho 83816-9000	via Interoffice Mail
<u>X</u>	State Appellate Public Defender 3647 Lake Harbor Lane Boise, Idaho 83703	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Facsimile (208) 334-2985
<u>X</u>	Lawrence G. Wasden Attorney General P.O. Box 83720 Boise, Idaho 83720-0010	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Facsimile (208) 854-8074
<u>X</u>	Reporter for District Judge Lansing Haynes, Laurie Johnson via Interoffice Mail	



ORIGINAL

J. Bradford Chapman, Sr. Staff Attorney
Office of the Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5101

2010 08 -16 PM 3:20

John Swick

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,

Plaintiff,

V.

DAVID LOREN CURRY,

Defendant.

CASE NUMBER CR-10-0003389

**ORDER FOR APPOINTMENT OF STATE
APPELLATE PUBLIC DEFENDER IN
DIRECT APPEAL; RETAINING TRIAL
COUNSEL FOR RESIDUAL PURPOSES**

TO: OFFICE OF THE IDAHO STATE APPELLATE PUBLIC DEFENDER, AND, J.
BRADFORD CHAPMAN, DEPUTY PUBLIC DEFENDER, KOOTENAI COUNTY.

A judgment having been entered by this Court on **August 19, 2010**, and the defendant having requested the aid of counsel in pursuing a direct appeal from this district court in this felony matter, and defendant's trial counsel having filed a timely notice of appeal, and the Court being satisfied that said defendant continues to be a needy person entitled to public representation, therefore,

IT IS HEREBY ORDERED, in accordance with I.C. 19-870, that the State Appellate Public Defender is appointed to represent defendant in all further proceedings involving his appeal.

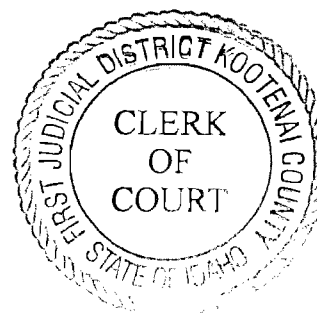
**ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER IN
DIRECT APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES -1 -**

IT IS FURTHER ORDERED that trial counsel shall remain as appointed counsel of record for all other matters involving action in the trial court which, if resulting in an order in defendant's favor, could affect the judgment, order or sentencing in the action, until the expiration of the time limit for filing said motions or, if sought and denied, upon the expiration of the time for appeal of such ruling with the responsibility to decide whether or not a further appeal will be taken in such matters.

IT IS FURTHER ORDERED that trial counsel shall cooperate with the Office of State Appellate Public Defender in the prosecution of defendant's appeal.

DATED this 6 day of October, 2010.

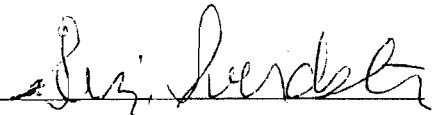
Lansing L. Haynes
LANSING L. HAYNES
DISTRICT JUDGE



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 6 day of, served a of October, 2010 true and correct copy of the attached ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER via facsimile, interoffice mail or as otherwise indicated upon the parties as follows:

<u>X</u>	Kootenai County Public Defender	<input type="checkbox"/>	Interoffice Mail
		<input checked="" type="checkbox"/>	Facsimile (208) 446-1701
<u>X</u>	Kootenai County Prosecuting Attorney	<input type="checkbox"/>	Interoffice Mail
		<input checked="" type="checkbox"/>	Facsimile (208) 446-1833
<u>X</u>	State Appellate Public Defender	<input type="checkbox"/>	First Class Mail
	3647 Lake Harbor Lane	<input type="checkbox"/>	Certified Mail
	Boise, Idaho 83703	<input checked="" type="checkbox"/>	Facsimile (208) 334-2985
<u>X</u>	Lawrence G. Wasden	<input type="checkbox"/>	First Class Mail
	Attorney General	<input type="checkbox"/>	Certified Mail
	P.O. Box 83720	<input checked="" type="checkbox"/>	Facsimile (208) 334-2530
	Boise, Idaho 83720-0010		
<u>X</u>	Supreme Court (certified)	<input type="checkbox"/>	First Class Mail
		<input checked="" type="checkbox"/>	Fax Certified (208) 334-2616
_____	Reporter for District Judge John T. Mitchell, Julie Foland via Interoffice Mail		
_____	Reporter for District Judge Fred M. Gibler, Byrl R. Cinnamon via Interoffice Mail		
_____	Reporter for District Judge John P. Luster, Anne MacMannus via Interoffice Mail		
_____	Reporter for District Judge Charles W. Hosack, JoAnn Schaller via Interoffice Mail		
<u>X</u>	Reporter for District Judge Lansing Haynes, Laurie Johnson via Interoffice Mail		



**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO)	CRF2010-3389
Plaintiff/Respondent)	
)	
vs.)	
)	
DAVID LOREN CURRY	)	SUPREME COURT
Defendant/Appellant	)	DOCKET 38127-2010
_____)	

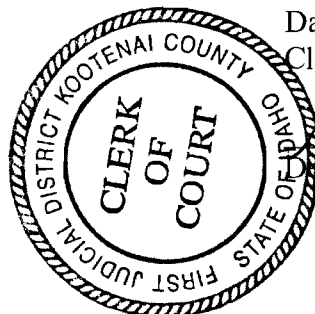
CLERK'S CERTIFICATE OF EXHIBITS

I, Leslie L Smith Deputy Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that the foregoing Record in this cause was compiled and bound under my direction and is true, correct and complete Record of the pleadings and documents requested by Appellate Rule 28.

I further certify that the following documents will be submitted as exhibits to the Record:

1. EXHIBIT #1
2. PRESENTENCE REPORT

In witness whereof, I have hereunto set my hand and affixed the seal of said Court at Kootenai County, Idaho this 27 day of December, 2010



Daniel J. English
Clerk of the District Court
[Signature]
Deputy Clerk

IN THE SUPREME COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO)	CRF2010-3389
Plaintiff/Respondent)	
)	
vs.)	
	)	SUPREME COURT
DAVID LOREN CURRY	)	38127-2010
Defendant/Appellant)	

CLERK'S CERTIFICATE OF SERVICE

I, Leslie L Smith, Deputy Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that I have personally served or mailed by United States Mail, one copy of Clerk's Record to each of the attorneys of record in this cause follows:

Attorney for Respondent
Lawrence G. Wasden
Attorney General
700 W. Jefferson, Suite 210
Boise, ID 83720-0010

Attorney for Appellant
Molly J Huskey
State Appellate Public Defender
3647 Lake Harbor Lane
Boise, ID 83703

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Kootenai, Idaho this 27 day of December, 2010.

DANIEL J. ENGLISH
Clerk of the District Court

Leslie L. Smith
Leslie L. Smith Deputy Clerk

